CBO ESTIMATES COST OF TOUGHER CAFE 3 | SCIENCE, POLITICS SHAPE HOG FARMING FUTURE 12 | WARMING MYTHS 10-11

Environment & Climate News

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Snowmobiles Banned from Yellowstone

by James M. Taylor

Federal Judge orders government to consider ban from all national parks

A federal district judge in Washington DC has thrown out a National Park Service (NPS) rule and ordered a permanent ban on snowmobiles from Yellowstone and Grand Teton national parks. The December 16 ruling—which outraged locals and DC policy experts alike—marks the first time snowmobiles have been banned from the national parks.

"The decision to ban the public's use of Yellowstone by snowmobiles in the winter is another lesson in

YELLOWSTONE p. 19

Digital Press Photos

SPECIAL REPORT p. 19

FDA Mercury Warning Based on Junk Science, Experts Say

by Steven Milloy

The Food and Drug Administration has issued a new warning to pregnant women about mercury in seafood. You can "protect your baby" from developmental harm by following three rules, the agency claimed.

But there's no evidence the rules will protect anyone, and they're likely only

MERCURY p. 15

Democrats Dodge Campaign Finance Law with Environment 2004

by James M. Taylor

Taking advantage of campaign finance laws that restrict direct contributions to political candidates but allow unrestricted contributions to "issues" advocacy, several former Clinton administration officials have begun raising money to target President George W. Bush's environmental record during the upcoming election.

DODGE p. 8

Science Debunks "Precautionary Principle"

by Duane D. Freese

The problems of the "precautionary principle" received a thorough airing from its critics at a December 12 forum sponsored by the George C. Marshall Institute, a Washington DC-based think tank focusing on science policy. The forum at the National Press Club, "Uses and Misuses of Science in Regulating Chemicals: Unintended Consequences for the Developing World," reviewed application of the precautionary principle to new biotechnology products, old restrictions on DDT, and new restrictions on a tried and true herbicide, paraquat.

Henry Miller of the Hoover Institution, founder of the Food and Drug Administration's Office of Biotechnology, noted environmental organizations don't seek "prudent, safe use" of such old chemicals as paraquat or new biotechnology products, "but their complete elimination."

"A large number of people in poor nations have food allergies," Miller pointed out, including to such common foods as milk, wheat, and nuts. "Biotechnology can remove the allergens ... so people in developing countries can enjoy some of these foods."

But environmental groups such as

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EARTH TRACK P. 6

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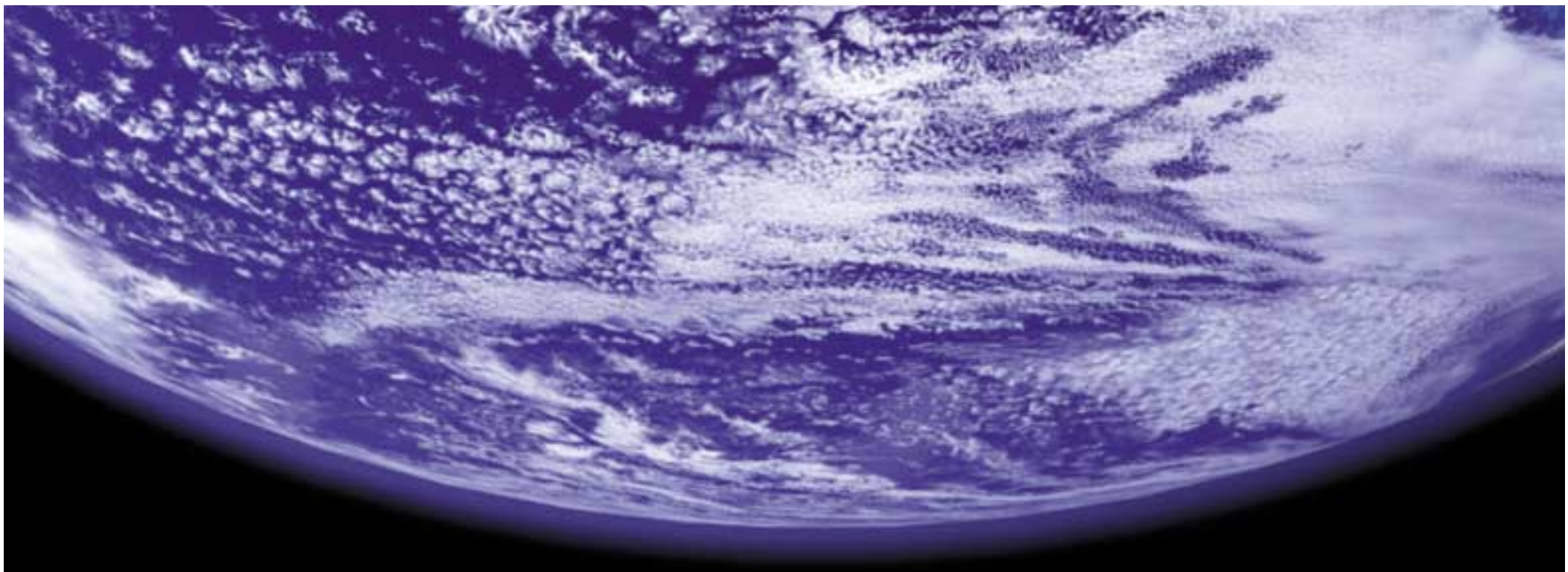

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CBO Hangs Price Tag on Tougher Fuel Economy Standards

by James M. Taylor

According to Congressional Budget Office (CBO) estimates released on January 5, a federally mandated increase in corporate average fuel economy (CAFE) standards for cars and light trucks would raise average vehicle prices $228, costing consumers an extra $2.4 billion a year and the auto industry another $1.2 billion.

The CBO modeled a hypothetical increase in CAFE standards—about 31.3 mpg for cars and 24.5 mpg for light trucks—that it estimated would be needed to reduce fuel consumption by 10 percent. Currently, car makers must ensure their 2005 automobile fleets get 27.5 miles per gallon. Light trucks must average 21 miles per gallon.

In addition to the dollar cost imposed by increasing fuel economy standards, "Higher CAFE standards could … reduce social welfare by worsening traffic congestion and increasing the number of traffic accidents," noted the CBO. "That undesirable outcome could occur because higher CAFE standards would lower the per-mile cost of driving, providing new-vehicle owners with an incentive to drive more.

"While the increase in driving associated with higher CAFE standards may be relatively small," the CBO concluded, "some studies suggest that the resulting costs of the increased congestion and traffic accidents may nevertheless be large."

media.gm.com

Under new rules proposed by the National Highway Traffic Safety Administration, the General Motors Hummer H2 would be classified as a light truck, rather than a heavy truck, forcing it to meet the standards of smaller vehicles.

DOT Proposes New Standards

The CBO report came just two weeks after the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) announced plans to restrict the range of mileage options on light trucks and similar vehicles. The proposed changes, according to the *Wall Street Journal*, "would represent the biggest regulatory rewrite in the 25-year history of the fuel-economy program."

The NHTSA's December 22 advance notice of proposed rulemaking, published in the *Federal Register*, includes several potential reform options, including a new program to tie fuel economy mandates to vehicle weight. The United Auto Workers union warned that would cause auto makers to close small-car factories, because smaller cars, already less profitable for the automakers than larger vehicles, would no longer be necessary to balance the fuel efficiency of a manufacturer's overall fleet.

Anti-car and -truck activists are unhappy that the proposed rule changes would not force SUVs and light trucks to conform to the demanding mileage requirements applicable to smaller automobiles. Applying such standards to SUVs would require dramatic price increases to pay for new technologies, making the vehicles too expensive for many Americans, or require reductions in horsepower, safety, and other aspects of performance.

"Consumers purchase vehicles to meet their family needs for affordability, passenger room, payload capacity, increased safety features, and utility," notes the Alliance of Automobile Manufacturers, an industry group. "Automakers are investing billions to develop and introduce breakthrough technologies that will lead to significant fuel economy gains—without sacrificing the features that consumers demand."

According to Sam Kazman, general counsel for the Competitive Enterprise Institute, SUV critics fail to grasp the variety of reasons why consumers choose SUVs and larger vehicles. One important reason, according to Kazman, is safety.

"By discouraging the purchase of large SUVs in favor smaller, less crashworthy SUVs," Kazman predicted, "the most likely effect of the CAFE increase will be to boost highway fatalities. DOT claimed there'd be no safety impact. That, however, has been its position on CAFE for over two decades, despite National Academy of Science findings and court rulings to the contrary.

"CAFE kills people," Kazman noted. According to the NHTSA's own data, he pointed out, mandatory fuel requirements cause up to 3,000 deaths per year.

"If an agency keeps its head in the sand for that long, is it any wonder that it ends up brain-dead?" he asked.

H2 a "Light Truck"?

The NHTSA's proposed rules would classify the General Motors Hummer H2 as a light truck, rather than a heavy truck, to force it to meet fuel economy standards applicable to smaller vehicles such as the Ford Ranger light pickup. Some light trucks would be reclassified as automobiles, forcing them to conform to more stringent fuel economy requirements.

DOT is also considering whether to set fuel economy standards for some or all vehicles weighing between 8,500 and 10,000 pounds, a category that currently is not required to comply with CAFE standards.

The proposed rule follows an April 2003 increase in fuel economy standards for light trucks that represented the largest increase in mandatory fuel economy standards in 20 years.

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

INTERNET INFO

The Congressional Budget Office's 37-page December 2003 report, *The Economic Costs of Fuel Economy Standards versus a Gasoline Tax*, is available through *PolicyBot*. Point your Web browser to **http://www.heartland.org**, click on the *PolicyBot* icon, and search for document **#14111**.

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Leavitt Signs Rule to Reduce Smog, Acid Rain

by James M. Taylor

Environmental Protection Agency Administrator Mike Leavitt on December 17 signed a regulatory proposal, the Interstate Air Quality Rule, ordering the most significant cuts in nitrogen oxides (NOx) and sulfur dioxide (SO2) emissions, the culprits of acid rain and smog, in more than a decade.

The Interstate Air Quality Rule establishes a cap-and-trade plan for nitrogen oxide and sulfur dioxide similar to provisions of President George W. Bush's Clear Skies Initiative, which has stalled in Congress. After a period of public comment, the new rule is scheduled to take effect in early 2005.

Dramatic Reductions

According to EPA, the rule will focus on states that significantly contribute to ozone and fine particle pollution in the Eastern United States. The rule would reduce power plant emissions in two phases. Sulfur dioxide emissions would drop by 3.7 million tons by 2010, a cut of approximately 40 percent from current levels, and by another 2.3 million tons when the rule is fully implemented after 2015, a total cut of nearly 70 percent from today's levels.

NOx emissions would be cut by 1.4 million tons by 2010 and by a total of 1.7 million tons by 2015, a reduction of approximately 50 percent from today's levels in the 30 states covered under the rule. Cumulatively, the rules will eliminate approximately 34 million tons of SO2 and NOx emissions between now and 2015 beyond the reductions achieved under current programs. Moreover, emissions will be permanently capped and cannot increase.

The new rule will reduce the number of cites and counties that have yet to meet the eight-hour ozone and particulate matter standards drafted by the Clinton administration in 1997.

"While we continue to believe that the Clear Skies Act is the best approach to reducing power plant emissions, and we are committed to working with our congressional sponsors to move this landmark legislation through Congress, we must move forward with these steps now." Leavitt said at a St. Louis, Missouri, event announcing the new rule.

A major focus of the rule is to proactively provide states with the strongest tools possible to help them meet the new health-based air quality standards, without harming their local economies.

"Cumulatively, the rules will eliminate approximately 34 million tons of SO2 and NOx emissions between now and 2015 beyond the reductions achieved under current programs."

"This proposal will speed the day when the people of St. Louis can be confident they are breathing clean, safe air," Leavitt said. "The pollution cuts we propose today will help states and cities across the nation achieve national health-based air quality standards."

"Collaborative Approach"

While the Clean Air Task Force and other liberal environmental lobbying groups complained the new rule favors industry and will "gut" the Clean Air Act, experts disagree.

Kenneth Chilton, Ph.D., director of the Institute for Study of Economics and the Environment at Lindenwood University,

Notimex

EPA Administrator Mike Leavitt recently signed a regulatory proposal ordering the most significant cuts in NOx and SO2 emissions in more than a decade.

supports the new rule, saying it "seeks to recognize that firms are only middlemen in the process. There is no 'them versus us' in this picture, only 'us.'

"Public utilities deliver electricity to businesses and consumers," Chilton explained to *Environment & Climate News*. "We work in the establishments, offices, and factories that need reasonably priced electricity to compete in the global marketplace. We pay the electric bill to run our air conditioners and appliances, to light our homes, and, in some cases, heat or homes."

To ensure continued improvements in the nation's air quality, Chilton said, EPA must "chart a course that will produce environmental and public health benefits while fostering a strong economy. This more collaborative market-based approach exemplified by the Interstate Air Quality Rule deserves public support."

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

Appeals Court Puts New Source Review Reforms on Hold

Temporary injunction indicates opponents have a "likelihood of success"

by James M. Taylor

The U.S. Court of Appeals for the District of Columbia Circuit has temporarily halted implementation of President George W. Bush's reforms to the New Source Review (NSR) provisions of the Clean Air Act. The reforms, announced August 27 by the U.S. Environmental Protection Agency (EPA), clarify when the federal government expects power plants to purchase and install new anti-pollution technology when performing routine maintenance.

The reforms include several new regulatory guidances. Most significantly, power plants would be required to purchase and install the most advanced anti-pollution technology when they replace equipment that costs at least 20 percent of the plant's essential production equipment.

"There was a need to make changes in the rules to keep up with how business has changed over the past 25 years," William Harnett, director of EPA's New Source Review enforcement program, said in defense of the reforms. "The rules ... will lead to greater environmental benefit."

The new rules were welcomed by power companies that previously had little way of knowing when their maintenance efforts would trigger the requirement to install new anti-pollution equipment. But environmental activist groups oppose the reforms, arguing EPA is wrong in concluding the changes will reduce pollution.

Government officials in 14 states—California, Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New Mexico, Pennsylvania, Rhode Island, Vermont, and Wisconsin—filed the suit challenging the reforms. Eleven others—Alabama, Alaska, Arkansas, Indiana, Kansas, Nebraska, North Dakota, South Carolina, South Dakota, Utah, and Virginia— registered their support of EPA and the NSR reforms.

By granting a motion for temporary injunction filed by New York Attorney General Eliot Spitzer, the court concluded NSR reform opponents had a "likelihood of success" in their legal challenge to implementation of the NSR reforms, and that "irreparable harm" was likely to occur if EPA enacted the reforms prior to a court decision on their legality.

"The decision by the D.C. Circuit Court is one of the most important environmental victories in many years," said Spitzer. "The importance of this ruling cannot be overstated. Not only does it freeze the regulation, but the court has also signaled that it may throw out the entire regulation after further review."

The court indicated in its December 26 ruling that it would expedite its review of the case.

Scott Segal, director of the Electric Reliability Coordinating Council, observed that the state attorneys general appear more interested in scoring political points against President Bush than in ensuring common-sense rules regarding air pollution.

"Nationwide, more governors and attorneys general do support clarification," Segal said. "The northeast attorneys general reflect a minority opinion, unfortunately demonstrating their desire to address economic competitive concerns rather than environmental protection."

Segal expressed confidence the Bush administration's position would ultimately be validated, either by the D.C. Circuit Court or the United States Supreme Court.

"The rule was based upon a substantial agency record with analysis, public hearings, and hundreds of thousands of rulemaking comments," Segal said. "We expect the rule will soon be back on course."

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

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Danish Government Committee Exposes Union of Concerned Scientists

by Neil Hrab

Best-selling author Michael Crichton recently observed that environmentalism is a kind of pseudo-religion. He's right. Environmentalists have their own holy day (Earth Day, April 22), their saints (Rachel Carson, Jacques Cousteau), demon (George W. Bush), and Garden of Eden (Arctic National Wildlife Refuge). They also have their own Grand Inquisitor—the Union of Concerned Scientists.

The Union's job is to hunt down heretics who desert the true faith. One of those is a Danish academic named Björn Lomborg. The green witch-hunters have been after him for the past three years.

Skeptic Attacked, Vindicated

Lomborg, a statistician, was once a member of Greenpeace and believer in the green religion. But he began to doubt its articles of faith as he studied the facts about the environment. Eventually Lomborg reviewed all the latest research and compiled his findings in a 540-page book, *The Skeptical Environmentalist*, published in 2001.

Before long, the green version of the Inquisition began to hound Lomborg. Savage reviews of his book appeared in newspapers and journals, claiming the book was based on a "lie." The Union of Concerned Scientists helped mobilize some of Lomborg's detractors.

In Denmark, his enemies formally attacked his scholarship. In January 2003, the oddly named "Danish Committee on Scientific Dishonesty," a creation of the government-funded Danish Research Agency, sprang into action. Its verdict: Lomborg was "guilty" of "plagiarization" and "fabricating data."

Lomborg's "optimistic view of the world" made it impossible for scientists to credit his findings. The greens asserted Lomborg tailored his book's conclusions to fit his belief that the global environment was in no danger of collapse. "[Lomborg's] values regularly taint his conclusions," said one American reviewer, writing at the request of the Union.

But Lomborg has had the last laugh. On December 17, the Danish Ministry of Science overturned the January ruling. It found the Committee's judgment "completely void of argumentation."

Calling the Kettle Black

Those who charge that Lomborg's research is clouded by bias would do well to look at their own history. The Union of Concerned Scientists, a strident political advocacy group conveniently based in the shade of Harvard at Cambridge, Massachusetts, typically interprets science to fit its politics.

In the 1980s it claimed President Ronald Reagan's Strategic Defense Initiative (SDI) would never work. A Union spokesman said it would cost taxpayers $1 trillion to put 2,400 armed satellites in orbit to shield the U.S. against a Soviet missile attack. Persistent criticism finally forced the group to revise its figures downward—to 800 satellites, then 300, and finally 162.

In 1984 the Union dropped all pretense to science or neutrality. Popular science writer Carl Sagan organized a 15-city tour by UCS members to bolster Democratic Presidential nominee Walter Mondale, an opponent of "Star Wars," in his unsuccessful campaign against Reagan. In 1988, the Union and other "peace" groups opposed research on what's now called the "stealth bomber," claiming it would make war with the Soviet empire more likely. The Union lost that fight, too.

In 1992 the Union issued a "World Scientists' Warning to Humanity." This petition is no different from the jeremiads of Paul Ehrlich, Lester Brown, and other members of the environmental clerisy. None dare quarrel with their dark vision of the future. The Warning speaks of "vast human misery" and a planet left "irretrievably mutilated." Mankind "may so alter the living world that it will be unable to sustain life in the manner that we know."

Climate Change Hedge

However, the appeal hedges on the question of climate change. "Increasing levels of gases in the atmosphere from human activities, including carbon dioxide released from fossil fuel burning and from deforestation, may alter climate on a global scale. Predictions of global warming are still uncertain—with projected effects ranging from tolerable to very severe—but the potential risks are very great."

"May alter." "Still uncertain." "Projected effects." "Potential risks." The appeal calls on humanity to regulate its activities in order to fit the Union's fears about future climate change, despite the absence of certainty that climate change is actually taking place. Sounds like someone's "values" are "tainting" their conclusions.

A more recent Union statement on climate change admits the future remains "something that by definition cannot be known with certainty." But if that's true, then why should we willy-nilly accept the Union's claims about climate change? Why the rush to embark on a vast global policy program based on what is at the end of the day somebody's hunch about what could happen?

History shows that those who persecute heretics beget more heretics. The Union of Concerned Scientists' clumsy attempt to silence Björn Lomborg is sure to inspire more skeptical environmentalists.

Neil Hrab is Warren Brookes Fellow at the Competitive Enterprise Institute and a contributor to Tech Central Station and the Capital Research Center's Greenwatch (**http://www.greenwatch.org**) *project.*

Excerpts from Danish Committee Vindicate Lomborg

In January 2003, the "Danish Committee on Scientific Dishonesty" (DCSD) gained worldwide media attention for alleging author Björn Lomborg was guilty of intellectual dishonesty in his book, *The Skeptical Environmentalist*. Lomborg's book had drawn global attention for its carefully documented exposé of environmental alarmism, all the more dramatic because of Lomborg's past association with Greenpeace.

In December 2003, the Danish Ministry of Science vindicated Lomborg by ruling the DCSD had rendered an unsubstantiated attack on Lomborg. Among the Ministry of Science's findings:

- "[T]he DCSD has not documented where the respondent (Lomborg) has allegedly been biased in his choice of data and his argumentation, and that the ruling is completely void of argumentation for why the DCSD find that the complainants are right in their criticism's of (Lomborg's) working methods."
- The DCSD's choice of language in attacking Lomborg "does not meet the linguistic standards of good administrative practice" and "the DCSD should be able to refer to the content of a criticism without using condescending or emotional language."
- It was "clearly wrong" for the DCSD to make a public ruling regarding the Lomborg book before giving Lomborg an opportunity to defend himself against the charges.

— J.T.

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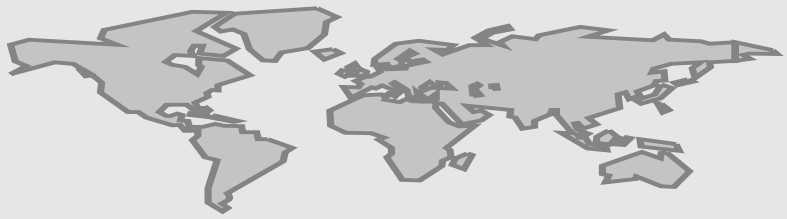
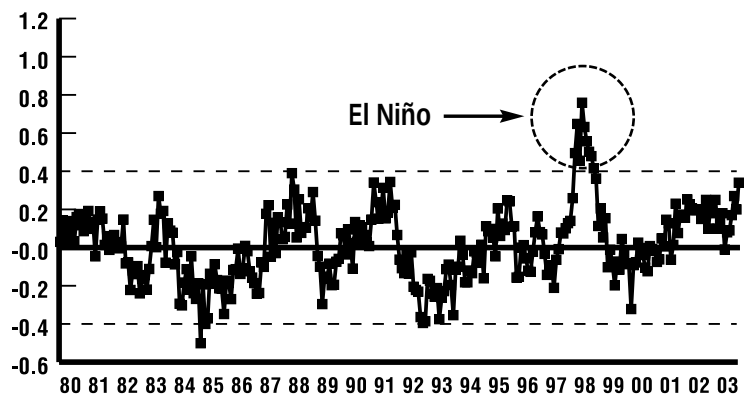


DECEMBER 2003

The global average temperature (top) for September was 0.34˚C above normal.
The Northern Hemisphere's temperature (middle) was 0.43˚C above normal.
The Southern Hemisphere's temperature (bottom) was 0.25˚C above normal.

Each month, Earth Track updates the global averaged satellite measurements of the Earth's temperature. These numbers are important because they are real—not projections, forecasts, or guesses. Global satellite measurements are made from a series of orbiting platforms that sense the average temperature in various atmospheric layers. Here, we present the lowest level, which climate models say should be warming. The satellite measurements are considered accurate to within 0.01°C. The data used to create these graphs can be found on the Internet at **http://vortex.nsstc.uah.edu/data/msu/t2lt/tltglhmam_5.1**.

GLOBAL AVERAGE



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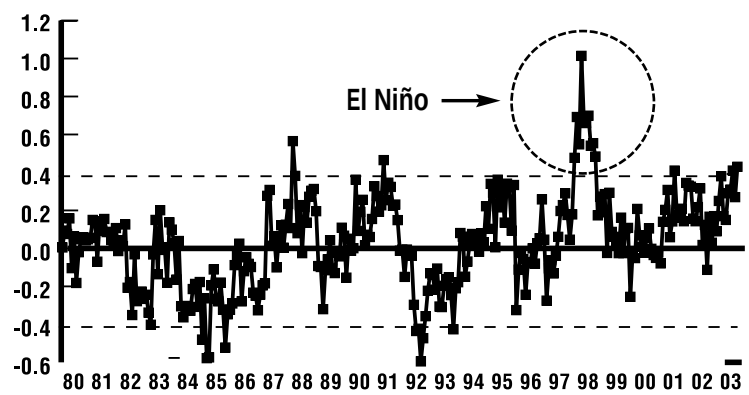

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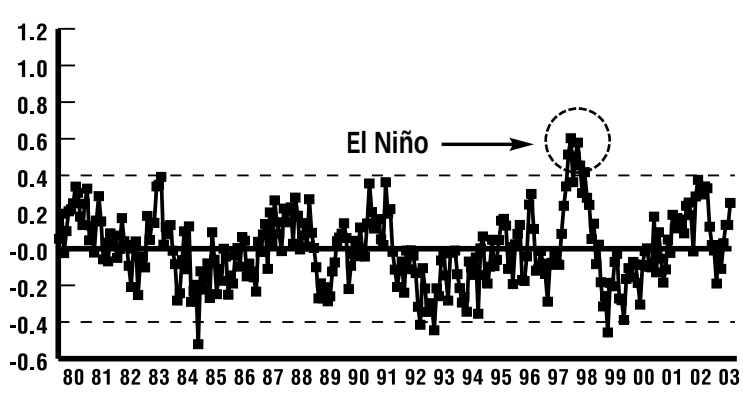

What We Know about Global Warming

by S. Fred Singer

Is the climate really warming? Weather satellites measuring atmospheric temperatures day in and day out from pole to pole report only a minute rise that extrapolates to about half a degree Centigrade by 2100.

Is this rise caused by human activities, like the burning of coal, oil, and gas? That's difficult to tell—climate varies naturally both up and down, so it could be partly non-human.

Is the observed warming significant? That's a matter of judgment, but half a degree is barely detectable and not likely to have an impact.

Let's assume, for the sake of argument, that global warming will accelerate in the future. Would such a warming be good or bad? After all, it is quite unlikely the present climate is in any way optimal.

Meteorologists tell us that a warmer climate will on the whole produce more rain—and thus fresh water—but not more severe storms or hurricanes. The warming would be concentrated in high-latitude regions north and south and would mainly raise temperatures at night in winter. So Arctic winters might reach minus 38 instead of the present minus 40 degrees. There would be few complaints ... even if polar bears and penguins could talk.

Economists tell us a moderate warming would be better for the economy and lead to a higher GNP and higher living standards worldwide. That is especially true, biologists tell us, if we also achieve a higher level of carbon dioxide in the atmosphere.

Contrary to all you might have heard, CO2 is not a pollutant, but an essential component of the Earth's atmosphere. With the help of sunshine and trace nutrients, plants turn CO2 into food and fiber. More CO2—better growth of crops and forests.

Geologists tell us that levels of CO2 have been 10 to 20 times the present level—and life in various forms did quite nicely. But CO2 has been declining more or less steadily in the past 200 million years, reaching dangerously low levels during ice ages. Some worry that in the next ice age, soon to arrive, it may fall below the level to sustain plant growth.

Now suppose everything we know is wrong and that the precautionary principle should be applied. What can we do and what should we do? Actually, there is practically nothing we can do to change the course of climate—short of gigantic and risky planetary engineering, like putting megatons of dust into the stratosphere and similar fanciful schemes. Certainly, the much-touted Kyoto Protocol, which would force us to use less energy by boosting its price, would be completely ineffective; it has been rejected by the United States and ignored by China and other giant energy consumers.

Adaptation is the only sensible answer to climate change, whether natural or human-caused.

S. Fred Singer is professor emeritus of environmental sciences at the University of Virginia and president of the nonprofit Science & Environmental Policy Project (**http://www.sepp.org**) *in Arlington, Virginia. His email address is* **singer@sepp.org**.

Greenhouse Gases Staved off Ice Age

by James M. Taylor

Measurements of air bubbles trapped in the Antarctic ice sheet show human greenhouse gas emissions staved off a renewed ice age and allowed human civilization to thrive, according to a study published in the journal *Climatic Change* (**http://www.kluweronline.com/issn/0165-0009**).

Research by University of Virginia emeritus professor Bill Ruddiman unveiled an unprecedented rise in atmospheric carbon dioxide 8,000 years ago, just as humans began clearing forests, cultivating crops, and raising livestock.

Equally important, atmospheric methane levels began rising 5,000 years ago as humans began flooding rice fields and increasing the number of livestock herds. Methane is an even more powerful greenhouse gas than carbon dioxide, though not as prevalent in the atmosphere.

Ice core samples reveal that regular patterns of warming and cooling prevailed for 400,000 years prior to human-induced changes in the composition of the atmosphere. "You have 395,000 years of history, which sets some rules, and 5,000 years that break those rules," explained Ruddiman.

According to the long-term climate patterns, the Earth would have entered a significant cooling pattern and a renewed buildup of ice sheets if not for stone age man's influence on the climate. A period of significant planetary cooling should have occurred several thousand years ago, explained Ruddiman, due to regular variations in the Earth's orbit around the Sun. Tellingly, the deviation from established climate cycles occurred simultaneous with human release of carbon dioxide and methane into the atmosphere. Those are the same gases targeted for reduction under the Kyoto Protocol.

The new revelation dispels the notion that humans had little or no impact on global climate prior to the industrial revolution. The revelation also dispels the notion that global warming is necessarily harmful to humans or to the planet itself.

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

INTERNET INFO

See "*NY Times*: Greenhouse Gases May Avert Next Ice Age," *Environment & Climate News*, January 2004. **http://www.heartland.org/Article.cfm?artId=14022**.

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Science

Continued from page 1

Greenpeace are using the precautionary principle to oppose development of those products and others that would improve agricultural productivity, Miller argues, not because they are dangerous, but because they are at odds with a social vision that is "anti-business, anti-technology, and anti-American."

DDT Essential for Fighting Disease

Roger Bate of the health advocacy organization Africa Fighting Malaria pointed out that the restrictions placed by developed nations on the pesticide DDT are especially dangerous to the health of people in poor countries.

The European Union's targeting of 12 chemicals, including DDT, based on the precautionary principle, Bate said, ignores "the risk profiles of nations at different stages of development." Poorer nations simply can't afford some of the controls rich nations place on the use of many pesticides, he argued.

DDT, Bate said, is vital to combating malaria and dengue fever—scourges that still kill hundreds of thousands of people in developing countries. The developed world's controls on DDT, which can delay imports for nearly six months, are leading to black markets and the development of less-safe imitation chemicals, he said.

The precautionary principle's prescriptions, he said, "have hampered trade, are hurting economic growth, and are damaging health."

Paraquat a Benign Crop Maximizer

Some of the most serious questions about motives behind the use of the precautionary principle by environmental groups came from the presentation by Prasanna Srinivasan of Business Environment Assessments, an expert on developing countries' economics.

Srinivasan released a new study sponsored by 30 organizations from 13 countries, titled "Paraquat: A Unique Contributor to Agriculture and Sustainable Development."

Paraquat is the most widely used herbicide in the developing world and has come under increasing attack by environmental groups, which claim it is dangerously toxic to humans.

"In addition to health hazards, regulators are concerned that the chemical is persistent and accumulates in soil. Studies indicate that paraquat has adverse effects on mammals, birds, fish, and amphibians. In Sweden we believe that, for the environment and for health, the only safe use is no use," Göran Eklöf of the Swedish Society for Nature Conservation argued last fall when a European Union scientific committee found paraquat safe for use in the EU.

Srinivasan finds most such claims to be simply false. With respect to persistence in soil, for example, Srinivasan found paraquat is "environmentally benign." It binds to clay soils and doesn't affect soil life or leech into groundwater. It degrades and "doesn't create any toxic effects in the breakdown," he said. Further, because paraquat doesn't destroy roots, it prevents soil erosion, which is especially important in tropical regions, Srinivasan argued.

As to human health effects, paraquat droplets are such that inhalation poses little health threat, although it can under some circumstances lead to bloody noses, Srinivasan found. It doesn't absorb through the skin and can be washed off, he noted. Syngenta, the major maker of paraquat herbicides, has added a foul smell, dye, and an emetic to help prevent and protect against any accidental ingestion of the herbicide.

"The big problem is if there is deliberate consumption for the purposes of suicide," Srinivasan found. Pesticides are a popular tool in suicides, he noted, and as one of the more common pesticides, paraquat is among those most often used.

According to the Food and Agricultural Organization and World Health Organization, paraquat "may be absorbed through the gastrointestinal tract. Paraquat is not absorbed to any great extent by intact skin and there is no evidence of significant absorption from spray mist. ... Repeated daily six-hour exposure of rats to paraquat aerosols over a three-week period produced signs of lung irritation but no deaths. ... Fish—Not hazardous: rapidly absorbed by aquatic plants and inactivated in mud. Birds—Not highly toxic. No hazard under normal conditions of use. ... Protective clothing should be provided for those handling concentrates. Adequate washing facilities should be available close at hand. Eating, drinking, and smoking should be prohibited during handling and before washing after handling."

Paraquat and other pesticides, Srinivasan argued, serve a vital need. Even with them, annual crop losses amount to between 33 and 42 percent of world production. Without pesticides, though, crop losses would reach 80 percent. And without the productivity enhancements such chemicals provide, the world would use more than double the 38 percent of arable land now used for agricultural purposes—an additional 14.1 billion acres, or 44 percent of the land available on Earth, Srinivasan said.

So, why do environmental groups lobby to restrict pesticide use, and ban paraquat in particular? Why are environmental groups attempting to intimidate the EU science commission that approved the sale of paraquat in Europe?

To Srinivasan the answer is that "certain extremist environmental groups ... seem to be more concerned with power than the truth." In place of the precautionary principle, he offers a proposal of his own: "To protect the farmers' rights wherever they may be to use whatever products and technologies they need."

Duane D. Freese is former member of the USA Today *editorial board and a columnist for Tech Central Station* (**http://www.techcentralstation.com**)*, where this essay first appeared.*

INTERNET INFO

The report by Prasanna Srinivasan, "Paraquat: A unique contributor to agriculture and sustainable development," released by the Marshall Institute on November 1, is available on the Internet at **http://www.marshall.org/article.php?id=183**.

New Study Confirms Dramatic Urban Heat Island Effect

by James M. Taylor

A new study presented to the American Geophysical Union (AGU) documents that the concentration of concrete, large buildings, and other human activities artificially raises urban temperatures in such cities as Atlanta and Houston by an average of 10 degrees on hot summer days. The study supports a wide body of evidence suggesting ground-based temperature readings do not provide reliable evidence of significant global warming.

On December 17, just one week after the AGU study was released, the *New York Times* nevertheless reported 2003 was the third warmest year on record, and that the three hottest years on record all have occurred during the past six years. The misleading *Times* story, based on temperature readings taken at ground-based weather stations, conflicts with satellite measurements of the Earth's lower atmosphere, which show very little, if any, warming since measurements began in 1979.

Recent studies on urban heat island effects appear to reconcile the ground-based measurements with the satellite data.

For example, in a recent article in *Remote Sensing of the Environment*, a research journal for environmental scientists, Rice University Department of Physics and Astronomy researcher David Streutker analyzed two sets of infrared temperature measurements for the city of Houston, Texas.

By comparing ground-based and satellite temperature readings, Streutker demonstrated that over the course of 12 years, between 1987 and 1999, the Houston urban heat island effect increased nearly a full degree Celsius. Urban population growth, rather than any external warming, explained the rise in temperatures in and around Houston.

Similarly, a study recently published in *Australian Meteorological Magazine* documented that the urban heat island effect artificially raises temperature readings in towns as small as 1,000 people.

According to the Center for the Study of Carbon Dioxide and Global Change, "Changes in population, which have generally been positive nearly everywhere in the world over this period, could easily explain" why ground-based temperature readings, usually taken in and near cities, show an apparent warming trend that is not substantiated by other data.

The new AGU study bolsters the evidence that surface-based temperature readings reflect localized human population growth rather than any significant increase in global temperatures. "The majority of evidence is pointing to some sort of urban modification," said Daniel Rosenfield of Hebrew University.

To affect surface temperature readings, "How big does a city need to be?" pondered NASA research meteorologist Marshall Shepherd. "The answer is still out there."

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

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Dodge

Continued from page 1

Referring to itself as "Environment 2004," the new group consists of such Clinton notables as former EPA Administrator Carol Browner, former Interior Secretary Bruce Babbitt, and former Undersecretary of Global Affairs Frank Loy. Environment 2004 has so far raised $500,000 to attack the Bush environment record and has set a goal of raising $5 million by the November 2004 election.

According to the December 5 *Chicago Tribune*, "The organization is structured to take advantage of loopholes in campaign finance laws that allow independent interest groups to gather unlimited 'soft money' contributions that candidates and political parties are no longer allowed to accept."

Section 527 of the Internal Revenue Service Code allows groups such as Environment 2004 to give unlimited political funding for running so-called "issue ads"—ads that do not directly advocate the election or defeat of a candidate. Critics charge Environment 2004 pushes the envelope regarding its Rule 527 status by explicitly stating on its Web site that its purpose and mission are "solely focused on promoting environmental issues to defeat George Bush and his Republican allies."

Admittedly Partisan

Said Heather Layman, a spokeswoman for the Republican National Committee, "[Environment 2004] is just the latest example of the Democrat plan to work outside the campaign finance system by using unregulated soft-money groups to defeat the President."

Environment 2004 admits on its Web site that it is a "partisan" group eager to "work closely with the Democratic Presidential nominee."

"Under applicable laws and regulations," states the group's Web site, "Environment 2004 has an unrestricted ability to communicate with its members on matters relating to the 2004 elections, including asking members to organize rallies and get out the vote to benefit Democratic candidates."

Jan Baran, former general counsel for the Republican National Committee, explained how Environment 2004 and similar groups can raise and spend hundreds of millions of dollars that are forbidden to parties and individual candidates. The groups can air television commercials until the final two months of the election, and "they can do direct mail, they can do phone banks, they can do billboards, they can do print advertisements" through election day.

Focus on Florida

Making its initial foray into Presidential politics, Environment 2004 hosted a December 5 press conference at the Florida Democratic convention. "As a native Floridian," said Browner at the convention, "I am saddened and outraged that our work to protect our fragile environment could be undone by an administration that enables polluters to evade environmental safeguards with impunity." Browner further lambasted the President for "efforts of this administration and its allies to auction off Florida's natural resources to the highest bidder at the expense of their health and the state's economy."

Browner offered few specifics to substantiate her charges, nor did she offer many Florida-specific examples of Bush's environmental record. Her most Florida-specific allegation was that Bush "allowed special interests to delay" a landmark Everglades restoration program—a program created and implemented through the cooperation of President Bush and Governor Jeb Bush.

Florida will be one of several states targeted by Environment 2004 during the coming Presidential campaign. According to the group's Web site, "In a small handful of battleground states, Environment 2004 will educate and mobilize voters who care about the protection of our environment. We expect the states to be chosen from among the following: Florida, Iowa, Michigan, Minnesota, New Hampshire, New Mexico, Pennsylvania, Oregon, and Wisconsin. Environment 2004 will use sophisticated polling and voter identification tools to ensure the views of environmental voters are heard at the polls."

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Envirotruth Online Petition Urges Russia to Reject Kyoto

by James M. Taylor

Envirotruth, sponsored by the National Center for Public Policy Research, is circulating an online petition urging Russian President Vladimir Putin to reject the Kyoto Protocol.

At the World Climate Change Conference held in Moscow from September 29 to October 3, 2003, climate scientists spoke out about the fundamental scientific shortcomings of the Kyoto Protocol. Russian President Vladimir Putin and his government officials are listening carefully to those scientists and have decided not to ratify Kyoto until they have had a chance to examine the full range of the treaty's implications: its economics, politics, and science.

Putin is now being pressured by the European Union and environmental activists to forgo a proper examination of the agreement and to ratify Kyoto quickly. According to Envirotruth, "Those of us who understand the very serious shortcomings in the scientific foundation of the treaty need to express our support for President Putin's move to delay a ratification decision and encourage him to take whatever time he and his government need to properly examine the science. We need to also express our belief that ratifying the accord would be a significant mistake."

Notably, even the *Chicago Tribune*, which usually parrots liberal advocacy groups on global warming, has realized the treaty is fundamentally flawed. According to a January 2 house editorial, "The world's attempt to curb greenhouse gases—the Kyoto protocol—has been wisely spurned by the United States and may be buried by Russia's refusal to sign. Early in December, Russian officials sent mixed messages about whether their country would sign the pact, which puts a heavy burden on industrial nations and asks little of developing nations. The U.S. was right to reject the Kyoto protocol ..."

Accordingly, Envirotruth is circulating the petition, reprinted on this page, to let Putin know not everyone in the West agrees with the EU and global warming alarmists.

The petition can be viewed and signed online at **http://www.envirotruth.org/president_putin/#bottom**.

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

PETITION

Kyoto Not Based on Sound Science Please Do Not Ratify the Accord

Dear President Putin,

I am writing to support your decision to delay ratification of the Kyoto Protocol. In particular, I encourage your government to carefully examine the climate science upon which the treaty is supposedly based, before making a ratification decision. By doing so, I am convinced that you will agree with the many leading climate scientists who have convincingly revealed that the scientific foundation of the Kyoto Accord is too weak to warrant its implementation at this time.

The funds needed to enable severe greenhouse gas controls would be far better spent on real and better-understood environmental problems, not to mention society's other urgent concerns. Contrary to the assertions of alarmists, it is highly improbable that human activity will cause catastrophic global warming. While working to reduce air and water pollution remains important, the Kyoto Accord does not address these phenomena, focusing instead on the erroneous belief that humans can somehow "stop climate change." It is obviously not worth restricting Russia's growth to "solve" such an improbable threat.

Your country now has the opportunity to demonstrate how environmental policy decisions should be made, namely through correct application of the latest environmental science, balanced with a thorough appreciation of the relevant economic and societal factors. The governments of the European Union, Japan, and Canada did not base their ratification decisions on a proper assessment of these factors. In Canada, for example, no public hearings were held on the science of Kyoto and the issue was mostly ignored in the pre-ratification debates.

However, in the United States, extensive, well-publicized science consultations with leading non-governmental climate scientists did take place and, largely as a result of this, the U.S. continues to remain outside of the Kyoto process. I believe the same will happen in Russia as you examine the fundamental science foundation of the protocol and so, echoing the sentiments of the many scientists who spoke out at the recent climate change conference in Moscow, I urge you to reject the Kyoto Accord.

Sincerely,

(Your Name)

http://www.envirotruth.org/president_putin/#bottom

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Montana Voters Favor Rocky Mountain Oil and Gas Recovery

Power plants switching back to coal due to natural gas shortage

by James M. Taylor

A majority of Montana voters favor increased production of oil and natural gas in the Rocky Mountains, according to a December poll conducted by Mason-Dixon Polling & Research Inc. The poll results may suggest a growing consensus among Western voters that energy production is not necessarily at odds with environmental concerns.

"Montanans appear to recognize that higher incomes are key to preserving the willingness and ability to pay for higher environmental quality," commented Richard Stroup, a senior associate of PERC, the Property and Environment Research Center in Bozeman, Montana. "In addition," he noted, "many pollution control devices require the use of additional energy, so keeping energy prices reasonable will help keep the cost of pollution control down. To keep prices down, you must produce more energy."

But John Baden, chairman of the Bozeman-based Foundation for Research on Economics and the Environment, warned against reading too much into the Mason-Dixon poll. "Montana voters are highly polarized on this issue," Baden told *Environment & Climate News*. "Ironically, while we probably have the highest large sport utility vehicle and pickup truck ownership in the nation—and hence the lowest miles-per-gallon—I see strong support for prohibiting oil and gas drilling on the Rocky Mountain front."

According to Mason-Dixon pollsters, 51 percent of registered Montana voters support increased resource recovery in the Rocky Mountains, while only 34 percent oppose it. The poll had a margin of error of +/- 4 percentage points.

Demand on the Rise

Rocky Mountain resource recovery is under federal scrutiny as the Bureau of Land Management (BLM) and U.S. Forest Service are examining the potential environmental impacts of increasing the amount of oil and gas production from Rocky Mountain locations. BLM has determined the Rocky Mountains contain a significant amount of recoverable oil and gas reserves that have yet to be tapped.

The Rocky Mountain energy reserves are important because of rising energy demand, particularly for natural gas. The Industrial Energy Consumers of America (IECA) reported in December 2003 that U.S. consumers paid $111 billion more for natural gas between June 2000 and October 2003 than they did for the same time-frame between 1997 and 2000. Even that figure does not tell the full story, reports IECA, because it does not reflect the resultant decline in manufacturing activity or the resultant increase in the price of consumer goods produced from natural gas.

"... 51 percent of registered [Montana] voters support increased resource recovery in the Rocky Mountains, while only 34 percent oppose it."

IECA notes natural gas production remained constant during the past three years despite a sharp rise in demand. Although natural gas reserves are plentiful in the U.S., production restrictions supported by environmental activist groups have limited the ability of energy suppliers to meet market demand. As a result, natural gas is increasingly losing out to coal and other energy sources.

Environmental activist concerns over natural gas recovery are precluding further improvements in environmental air quality. Natural gas burns cleaner than coal or oil, which has spurred a recent trend toward generating more of the nation's electricity from natural gas.

"Ironically," commented PERC's Stroup, "the increase in demand has been due in part to pressure from environmental groups. They want to reduce carbon dioxide, and natural gas produces less carbon dioxide per unit of energy production than do coal and oil."

Since 1998, virtually all newly constructed power plants have been designed to run on natural gas. But the trend in favor of natural gas appears to be grinding to a halt, as constricted supplies and bureaucratic red tape preclude increased natural gas production. Environmental restrictions have rendered roughly 40 percent of American natural gas reserves off-limits to production.

Moreover, bureaucratic delays are making natural gas recovery less feasible even in areas that are not off-limits. Marc Smith, executive director of the Independent Association of Mountain States, reports that permitting applications to drill for oil and natural gas on federal lands in the Rocky Mountains took only 84 days to process in 2001, but more than twice as long—175 days—in 2002. Smith pinned most of the blame on "extreme environmentalists and anti-development groups."

The result of these cross-purpose efforts is an intensifying, artificial shortage in natural gas supplies, leading to rapidly increasing prices. Consumer advocacy groups such as IECA note inflated prices make natural gas a less-desirable source of energy production. The most striking result of the artificial natural gas shortage is that power plants are switching back to coal and oil as a result of the steep increase in natural gas prices.

"Using natural gas to produce electric power increases the cost of natural gas and electricity for all consumers," said IECA Executive Director Paul Cicio.

The IECA report comports with the U.S. Energy Information Administration's (EIA) Annual Energy Outlook 2004. The EIA Outlook, released December 16, predicts natural gas prices will continue to climb in the next quarter-century, resulting in a heavier reliance on coal, oil, and nuclear energy. Stated Outlook 2004, "Although only a few years ago, natural gas was viewed as the fuel of choice for new generating plants, coal is now projected to play a more important role, particularly in the later years of the forecast."

"Back in the 1980s," noted Rob Bradley, president of the Houston, Texas-based Institute for Energy Research, "the Worldwatch Institute sold many environmentalists on the strategy of welcoming natural gas as the 'bridge fuel' to a 'sustainable' energy future. The American Gas Association and Interstate Natural Gas Association of America, both pressured by Enron, formed a gas-green alliance; the Natural Gas Supply Association did not. Today it looks like AGA and INGAA got snookered."

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TALL-

Nature Study Debunks Kilimanjaro Glacier Myth

BY JAMES M. TAYLOR

"The icecap atop Mount Kilimanjaro," reported a 2001 *New York Times* article, "which for thousands of years has floated like a cool beacon over the shimmering equatorial plain of Tanzania, is retreating at such a pace that it will disappear in less than 15 years, according to new studies." The article created a media sensation with its alarmist claim and with its emphasis that global warming was surely to blame.

In truly poetic language, the *Times* reported, "The vanishing of the seemingly perpetual snows of Kilimanjaro that inspired Ernest Hemingway, echoed by similar trends on icecapped peaks from Peru to Tibet, is one of the clearest signs that a global warming in the last 50 years appears to have exceeded typical climate shifts."

Global warming, however, is not to blame for the retreating Kilimanjaro ice cap, according to a November 24, 2003, article published in *Nature* magazine.

Deforestation "More Likely Culprit"

According to *Nature*'s Betsy Mason, "Although it's tempting to blame the (Kilimanjaro) ice loss on global warming, researchers think that deforestation of the mountain's foothills is the more likely culprit."

Forests at the base of Kilimanjaro have been steadily disappearing for decades. "Without the forests' humidity," Mason reports, "previously moisture-laden winds blew dry. No longer replenished with water, the ice is evaporating in the strong equatorial sunshine."

"Why has [the Kilimanjaro ice cap] been melting so relentlessly?" asked climatologist John Daly. "The greenhouse industry say 'global warming,' but then they would say that, wouldn't they?

"The only problem with that knee-jerk explanation is that there has been no measurable atmospheric warming in the region of Kilimanjaro," noted Daly. "Satellites have been measuring temperature since 1979 in the free troposphere between 1,000 and 8,000 meters altitude, and they show no tropospheric warming in that area. None."

According to Daly, human-induced global warming should not have been named the primary culprit, even before a connection to deforestation was made.

Said Daly, "Kilimanjaro is above most of the weather and is thus exposed to the equatorial sun, a sun that has been hotter during the twentieth century than at any time since the medieval period. That would be a sufficient explanation in itself for the depletion of the ice cap."

"The advance/buildup or retreat/melting of glacial ice is often interpreted as a sign of climate change," reports the Center for the Study of Carbon Dioxide and Global Change (**http://www.co2science.org**). "Climate alarmists have already rendered their verdict: There has been a massive and widespread retreat of glaciers over the past century, which they predict will only intensify under continued CO2-induced global warming. This assessment, however, may be a bit premature."

According to the Center, "Following the peak of Little Ice Age coldness, it should come as no surprise that many records indicate widespread glacial retreat, as temperatures began to rise in the mid- to late-1800s and many glaciers returned to positions characteristic of pre-Little Ice Age times.

Some Shrinking, Others Growing

"What people may find surprising, however, is that in many instances the rate of glacier retreat has not increased over the past 70 years; and in some cases glacier mass balance has actually increased, all during a time when the atmosphere experienced the bulk of the increase in its CO2 content."

A study published in *Progress in Physical Geography* (Braithwaite, R.J., 26: 76-95 (2002)), analyzed mass balance measurements of 246 glaciers from around the world between 1946 and 1995. According to the study's author, "there are several regions with highly negative mass balances in agreement with a public perception of 'the glaciers are melting,' but there are also regions with positive balances."

Within Europe, for example, "Alpine glaciers are generally shrinking, Scandinavian glaciers are growing, and glaciers in the Caucasus are close to equilibrium for 1980-95," according to Braithwaite. Significantly, regarding this most recent 15-year period of time, Braithwaite noted "there is no obvious common or global trend of increasing glacier melt in recent years."

Daly predicts that because of mountain base deforestation, and all other things being equal, "What happens on Kilimanjaro will also be happening on countless mountains all over the world where forests on lower slopes have been replaced by open pasture.

"Blaming it all on 'global warming' was just too glib and convenient for an industry desperate to convince a skeptical public that the end of the world was nigh," said Daly. "With a more down-to-earth cause like this identified, other 'global-warming-did-it' phenomena should be looked at again for simple local causes like this."

"Not a Thermometer"

"The Kilimanjaro ice cap is not a thermometer," said S. Fred Singer, professor emeritus of environmental sciences at the University of Virginia and president of the nonprofit Science & Environmental Policy Project in Arlington, Virginia. "It may well be melting, but this is simply a delayed consequence of a natural climate warming during the early part of the twentieth century. Moreover, it will continue to melt as long as the climate doesn't return to the temperatures of the Little Ice Age of past centuries."

Added Singer, "The National Academy of Sciences published a report (in 2000) that defines the geographic regions of warming and cooling during the last 20 years. Surface measurements of East Africa show no warming trend. Weather satellites show a pronounced cooling trend of the atmosphere there. No one has questioned these data."

"One of the endlessly fascinating aspects of modern journalism is the absolute lack of critical insight tendered towards environmental scares," said Pat Michaels, research professor of environmental sciences at the University of Virginia and a past president of the American Association of State Climatologists. "A cursory inspection of (Kilimanjaro) data shows that Kilimanjaro's glaciers would be dying even if *Homo sapiens* were still just hanging around the trees of the Rift Valley, a few hundred miles to the West.

"From 1953 through 1976, 21 percent of the original (ice cap) area was uncovered. This was during a period of global cooling—yes, cooling—of 0.13° F," said Michaels. "Around Kilimanjaro, satellite data show a cooling of 0.40° F since 1979. Still, Kilimanjaro's glaciers continued to shrink."

Added Michaels, "Kilimanjaro turns out to be just another snow job, precipitated by a journalistic community that has lost its desire for critical factual investigation when it comes to our globe's environment."

> "Kilimanjaro turns out to be just another snow job, precipitated by a journalistic community that has lost its desire for critical factual investigation when it comes to our globe's environment."
>
> PAT MICHAELS
> UNIVERSITY OF VIRGINIA

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TALES

Sacramento Bee Seeks to Out-Alarm *New York Times*

BY JAMES M. TAYLOR

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Sacramento Bee
December 8, 2003

CHANGE AND LEADERSHIP:

Russia, U.S. can't duck global warming role

The world is flawed, but only global warming strategy is on dangerously thin ice. Russian officials, who used to routinely voice support for the so-called Kyoto Protocol, are beginning to send mixed signals as to whether they will commit to reducing emissions of carbon dioxide—saying "no" one day, then "maybe" the next. If Russia and the United States, the world's two largest polluters in terms of total carbon dioxide emissions, fail to adopt this treaty, it fails to formally take effect in the rest of the 100-plus countries that have already approved it. This is hardly the style of leadership that this increasingly worrisome issue demands.

The scientific evidence at this point is crushing. Global warming is not only for real, it's accelerated by the emissions of modern society. **(1)** A new report in California predicts a scary scenario in the Sierra, a precipitation shift from snowfall to rain that would effectively reduce the ability of the state's massive reservoir system to capture adequate supplies of water. **(2)** Small increases in the sea level could have huge impacts in the Sacramento-San Joaquin Delta, where a saltwater intrusion would wreak havoc on the pumps that provide water for farming and for the economy of 17 million people in Southern California. **(3)** By the end of this century, according to a new study by teams of international researchers (published in last Friday's [December 5] edition of *Science*), there is a 90 percent chance that the world's temperature will rise between 3.1 and 8.9 degrees Fahrenheit. **(4)**

"Modern climate change is dominated by human influences, which are now large enough to exceed the bounds of natural variability," concludes the study. **(5)** "It is very unlikely to be adequately addressed without greatly improved international cooperation and action."

Crafted in 1997, the Kyoto Protocol called for reducing carbon dioxide emissions worldwide by 5.2 percent by the year 2012 (compared to 1990 levels). How? The strategy was to rely heavily on the advanced economies. **(6)** Their high standards of living (more cars, air conditioners, electricity consumption, etc.) simply create more pollution. **(7)** The investments by big polluters such as the United States could either happen at home or in a fast-developing country where modest spending could have a big payoff. **(8)**

The Bush administration seeks to debate once again the question of who has to reduce what, to further study whether humans are really behind the temperature shift and to seek volunteers among the major pollution sources to curb emissions. This is a prescription for failure and international ridicule. **(9)**

1 As James Schlesinger noted in a *Washington Post* article last summer, "Despite the certainty many seem to feel about the causes, effects, and extent of climate change, we are in fact making only slow progress in our understanding of the underlying science." A petition compiled by a past president of the National Academy of Sciences and signed by more than 17,000 scientists says the science of climate change, and man's role in it, is uncertain.

2 Actually, the study's lead author was careful to say their "scenarios" are not predictions. They are computer simulations based on many assumptions, often with margins of error larger than the effects they claim to find. The Intergovernmental Panel on Climate Change (IPCC) says forecasts of the regional effects of climate change are impossible.

3 Scientific evidence shows sea level is not rising or is rising at a rate consistent with post-ice age history. Moreover, even if sea levels rose a couple of feet, as predicted by alarmists, this would have no impact on the water table for Sacramento, which is dozens of miles and a coastal mountain range removed from the sea.

4 This study was outdated and debunked before it was published. The predicted temperature increases cited by the *Sacramento Bee* are dependent on unrealistic assumptions that most of the impoverished nations of the Earth will undergo astonishing growth fueled almost exclusively by fossil fuels. The alarmist scenario assumes average incomes on the entire Asian continent will increase over the next 100 years by a factor of between 70 and 140. Similarly, this scenario depends on an assumption that nations such as North Korea, Libya, and Latvia, to name just a few, will in the coming century surpass the United States in per-capita Gross Domestic Product, and do so almost entirely through dramatic escalations in CO2 emissions. Common sense clearly dictates such predictions are farfetched, to say the least.

5 The global climate is dominated by the sun, not by man. To the extent the human presence has any influence, it is probably due to farming, ranching, and deforestation in developing countries, not emissions from the U.S. The small human influence, if it exists, may be preventing the overdue recurrence of another ice age.

6 The U.S. and other developed countries would have to make drastic cuts in energy use, while nations such as China and India, the second and third greatest emitters of greenhouse gases, are allowed to increase their emissions as much as they like. As a result, total global emissions would continue to rise.

7 Nations with "advanced economies" emit far fewer greenhouse gases per unit of domestic product than developing nations, which rarely utilize advanced emission-reduction technologies.

8 As stated by James Hansen, "it is estimated that two-thirds of the cost of the Kyoto targets, if they were extended to the U.S., would be borne by the U.S." Moreover, observed Hansen, "the Far East (defined as Japan, Korea, China, Taiwan, Mongolia) and the rest of Asia (includes the Middle East) have had the fastest growing CO2 emissions in recent decades and are now near the same level of emissions as the United States. Future global CO2 emissions will depend upon the path of Asian emissions" (**http://www.giss.nasa.gov/research/forcings/ceq_presentation.pdf**).

9 Stepping up scientific research is a prescription for international ridicule only if the international community is ignorant of the science or intent on implementing the Kyoto Protocol as a means to secure competitive advantages for their own economies at the expense of the U.S. economy.

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PART 3 IN A THREE-PART SERIES

Science, Politics Shape Future of Hog Farming

by James M. Taylor

Editor's note:
In the January 2004 issue of *Environment & Climate News*, Managing Editor James M. Taylor examined how scientists are researching alternatives to open-air hog waste lagoons. Some technologies promise environmental improvements over the status quo, but would be much costlier than lagoons. In this final installment in our three-part series, Taylor examines how environmental science and politics my affect the future of hog farms.

Inside the Washington DC beltway, there aren't many hogs, farmers, or people who've spent time on or near a hog farm. Yet it is here that a battle is raging that will shape the destiny of U.S. hog farms and their food products.

Bill Mann of the *Motley Fool* reported that last fall, shortly before Bob Graham dropped out of the race for the Democratic Presidential nomination, "I received an email from Graham's campaign urging me to sign a petition to call for the Justice Department to block Smithfield Foods' proposed purchase of Farmland Industries' pork processing facilities. The argument is that the merger puts 'family farmers at risk by taking power from independent producers and put[ting] it in the hands of CEOs.'"

The Graham effort is nothing new. A ban on packer ownership of hogs was considered during negotiations over the 2002 Farm Bill. And in January 2003, according to economist John Skorburg, author of a new *Heartland Policy Study* on packer ownership of livestock, "Bill S27 was introduced in the U.S. Senate to amend the Packers and Stockyards Act of 1921 to make it unlawful for a packer to own, feed, or control livestock more than seven business days before slaughter."

"This bill is intended to level the playing field between concentrated packers and small and medium-sized producers," said S27 cosponsor Sen. Mike Enzi (R-Wyoming).

Efforts to ban vertical integration of hog farming have been pursued not only at the national level, but at the state level as well. Nine states have some form of legislation restricting packer ownership of livestock. The debate over vertical integration has been particularly contentious in Iowa, the nation's leading hog-producing state, where the legislature passed a ban on packer ownership that was struck down by a federal court in January 2003 as unconstitutional.

INTERNET INFO

See "Hog Farms and the Environment: An Investigative Series (part 1)", *Environment & Climate News*, December 2003. **http://www.heartland.org/Article.cfm?artId=13708**

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"Economic and Structural Relationships in U.S. Hog Production," U.S. Department of Agriculture, February 2003. **http://www.ers.usda.gov/publications/aer818/**

John Skorburg,"Packer Ownership of Hogs: Economic and Political Ramifications," *Heartland Policy Study* No. 103, December 2003, **http://www.heartland.org/Article.cfm?artId=13959**.

Environmental Impact

The vertical integration debate has important implications for environmental as well as agricultural policy.

Although the link between open-air hog waste lagoons and environmental and human health concerns is anecdotal at best, the drumbeat for more stringent environment standards is growing louder in Congress and state legislatures. Alternatives exist, but they are expensive. Some family farms will be able to afford them, but many will not.

"Hog farms ... are better positioned to take advantage of new, more expensive waste treatment technologies."

Modern large-scale hog farms—a type of livestock operation technically known as concentrated animal feeding operations, or CAFOs—are better positioned to take advantage of new, more expensive waste treatment technologies. Noted the U.S. Department of Agriculture (USDA) in a February 2003 report, "If alternative or innovative manure management technologies are required to comply with more stringent regulation, large and independent operations are in a much better position than small and contract grower operations to make the necessary capital improvements."

There appears to be some evidence to support the USDA's position. Arlan DeBlieck, a researcher for the Public Interest Institute in Pleasantville, Iowa, reports, "The heaviest hog population in the country is in Duplin County, North Carolina. It has experienced a 500 percent growth rate in hog numbers since 1980. Yet according to the North Carolina Department of Environment and Natural Resources, there has been no change in water quality. Research is showing size [of hog farming operations] and technology may be reducing, not increasing, the risks to society."

"Corporatization, consolidation, and vertical integration are major trends in the pork and beef industries," says Skorburg. Those trends are being driven, he reports, by "market forces that include low profit margins, foreign competition, the need for better quality control, and better risk management."

In addition to the economic advantages offered by packer ownership, emerging environmental advantages suggest packer ownership will continue in the industry ... provided governments can avoid interfering with the trend.

Which brings us back, full circle, to the central issues regarding hog farms and the environment:

- Do the open-air lagoons of today's hog farms cause significant damage to the environment or risks to human health? The evidence is mixed, with anecdotal reports of negative effects but little if any scientific or medical evidence to support those claims.
- Are alternatives to open-air lagoons available? Yes, but they are costly. "Ridiculously expensive," according to Brandon Howard, the owner of a North Carolina family hog farm. "You couldn't turn enough pigs to justify the expense of the system."
- Can a solution emerge? Without a doubt ... if elected officials allow farmers, consumers, and other stakeholders to determine what combination of corporate and family farms best balances the economic, environmental, and health issues raised by the industry.

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

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Bush EPA Steps Up Enforcement, New Focus on Benefits

by James M. Taylor

The U.S. Environmental Protection Agency (EPA) released its Fiscal Year 2003 Annual Report on December 11. The compliance assurance and enforcement results for the period showed environmental benefits increased an estimated 131 percent over Fiscal Year 2002. Estimated pollutants reduced, treated, or properly managed totaled approximately 600 million pounds, compared to 260 million the previous fiscal year.

"[EPA's] compliance assurance and enforcement results for Fiscal Year 2003 showed environmental benefits increased an estimated 131 percent over Fiscal Year 2002. Estimated pollutants reduced, treated, or properly managed totaled approximately 600 million pounds, compared to 260 million the previous fiscal year."

"Our accomplishments this past year clearly demonstrate the Administration's commitment to a vigorous enforcement and compliance assurance program. Those numbers are impressive," said John Peter Suarez, who resigned on January 5 as EPA's assistant administrator for enforcement and compliance assurance. "Through collaboration with states, tribes, local governments, and private citizens, we've been able to build a program that maximizes environmental and public health results."

In addition to the approximately 600 million pounds of pollutants reduced, treated, or properly managed, EPA enforcement resulted in the treatment of more than 3.7 million tons of contaminated soil. Last year, EPA began estimating as well the gallons of contaminated groundwater treated (6.5 billion), acres of wetlands restored (1,050), and number of people served by drinking water systems brought into compliance (2 million) as a result of EPA enforcement activity.

As a result of enforcement settlements, almost $2.9 billion in injunctive relief will go toward the cleanup of polluted sites and protection against further environmental harm.

The number of businesses provided with compliance assistance increased 22 percent in 2003; more than 700,000 entities were assisted. The Web-based Compliance Assistance Centers registered more than 800,000 visits last year. "This assistance activity heads off pollution before it starts," Suarez said, "and helps businesses run their environmental programs more efficiently and effectively."

EPA's FY2003 enforcement and compliance results also include:

- More than 98 million pounds of sulfur dioxide removed from the air;
- Nearly $2.9 billion pledged by violators to correct violations, restore the environment, and prevent future damage;
- A combined total of 146 sentence-years for criminals who willfully or knowingly broke the law;
- Almost 19,000 compliance inspections conducted by EPA across the nation; and
- $167 million in administrative, criminal, and civil judicial penalties.

"EPA's going after what really counts—reducing pollution and protecting public health," said Suarez. "We don't count our success in the number of notices of violation we write, as some would suggest."

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

INTERNET INFO

The full text of EPA's *Fiscal Year 2003 Annual Report* is available on the agency's Web site at **http://www.epa.gov/ocfo/finstatement/2003ar/2003ar.htm**.

U.S., Mexico Announce Plans to Improve Border Environment

EPA publishes framework of landmark agreement

by James M. Taylor

The U.S. Environmental Protection Agency (EPA) has announced the framework for a landmark environmental protection agreement between the U.S. and Mexico.

According to Border 2012 plans published by EPA in the December 16 *Federal Register*, the two nations will cooperate to achieve major environmental improvements in an area 63 miles on either side of the international boundary, extending from the Gulf of Mexico to the Pacific Ocean.

Officials from both countries assert that booming population growth in the border region has created environmental issues of growing concern. According to EPA, population growth in the U.S. portion of the border region is more than 40 percent higher than population growth in the rest of the country. Mexico reports similar growth in its portion of the border region.

The Border 2012 framework identifies waterborne diseases, agricultural runoff, inadequate sewage treatment, mismanagement of pesticides, and illegal dumping of waste as the most pressing environment problems in the region.

To combat water pollution, the U.S. and Mexico will put in place a monitoring system for 10 percent of all drinking water systems in the border region by 2005 and all navigable waters in the region by 2006.

The Border 2012 framework also directs the U.S. and Mexico to:

- set specific air pollution emissions reduction goals by 2004;
- train 36,000 migrant farm workers on how to properly handle agricultural pesticides;
- develop in 2004 a plan for cleaning up hazardous waste sites as required by Mexican and U.S. law;
- integrate their waste tracking systems by 2006;
- implement joint chemical emergency response plans in all border cities by 2008; and
- by 2010, close and clean up the three largest tire dumps along the border.

Stated EPA, "The 10-year Border 2012 program emphasizes a bottom-up, regional approach, anticipating that local decision-making, priority-setting, and project implementation will best address environmental issues in the border region. It brings together a wide variety of stakeholders to produce prioritized and sustained actions that consider the environmental needs of the different border communities."

"The Border 2012 framework identifies waterborne diseases, agricultural runoff, inadequate sewage treatment, mismanagement of pesticides, and illegal dumping of waste as the most pressing environment problems in the region."

To ensure compliance with the agreement, EPA and the Mexican Secretariat for the Environment and Natural Resources will jointly create and oversee four regional environmental workgroups. The workgroups will oversee border issues in the California-Baja international region, the Arizona-Sonora region, the New Mexico-Texas-Chihuahua region, and the Texas-Coahuila-Nuevo Leon-Tamaulipas region.

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

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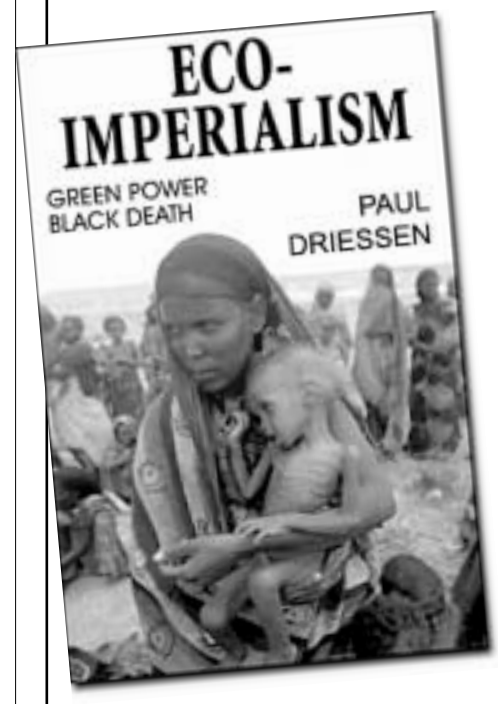

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PART 2 IN A TWO-PART SERIES

Nuclear Energy IN THE World Today

by Dr. Jay Lehr

"Nuclear power is a safe, cost-effective, and r
—the 24/7 energy that keeps th

In addition to the good financial news for nuclear energy, presented in Part 1 of this series, there is a great deal of exciting environmental news.

Detroit Edison

At Detroit Edison's Fermi 2 Power Plant, environmentalism is for the birds ... and the native purple coneflower ... and the eastern painted turtles.

Hugging the shoreline of Lake Erie, the nuclear power plant seems an unlikely spot for an environmental effort that has garnered praise from government and public policy groups alike. But looks can be deceiving.

The Wildlife Habitat Council bestowed its National Habitat Conservation Award on Fermi 2 in 2002 in recognition of its wildlife plan. The plant's site encompasses approximately 1,120 acres of land, with about 680 acres available for wildlife. Its habitat ranges from forested lowlands and coastal wetlands to open fields and quarry lakes.

The wildlife plan includes planting a wildflower meadow, taking the annual Christmas bird count, and creating shelter and food sources for pheasant. Since the plant's wildlife team began participating in the annual National Audubon Society's Christmas bird count in 1990, visitors to the Fermi site have included great blue herons, mallards, woodpeckers, and northern cardinals.

The Fermi plant is not alone in its commitment to environmentalism, as is made clear in the Nuclear Energy Institute's 2003 report, *Powering the Future with Environmentally Sound Nuclear Energy: The Ecological Stewardship of the Nuclear Energy Industry*. **(http://www.nei.org/documents/Ecology_Book_2003.pdf)**

"All of the 103 U.S. nuclear power plants ... carry out a variety of ecological programs," the report notes, "depending on their locations and circumstances." The report summarizes scores of ecological programs undertaken by power plants in more than a dozen states, from Arizona to Louisiana to Connecticut.

Waste Disposal

Nuclear plants release no noxious gases or other pollutants. The per-capita radiation dose from an entire nuclear cycle of a power plant is less than that from cosmic radiation received by passengers on a single cross-country airplane flight.

A 1000 megawatt nuclear plant typically produces about 20 metric tons of high-level waste each year in the form of used nuclear fuel. Because of the density of uranium, this amount of used fuel is remarkably small in volume. If all the used nuclear fuel generated over the past 40 years of power generation were stacked on a football field, the pile would be only about five yards deep.

When used nuclear fuel is removed from the reactor vessel, it is first stored for at least five years in specially designed cooling pools in secure buildings. After the initial cooling period, the fuel can then be removed from the pools and placed in robustly designed dry casks for longer term storage or transport to a permanent deep geologic disposal site.

Nuclear plants also produce varying amounts and types of low-level waste, which can be compacted and safely buried in disposal trenches. This low-level waste is often less radioactive than coal ash.

The high-level waste is highly radioactive. Thanks to its small volume, this waste can be meticulously sequestered behind multiple barriers, such as the above-mentioned storage pools and dry casks. It decays steadily, losing 99 percent of its toxicity after 600 years. France has used a most sensible storage method, encapsulating the waste in glass, putting the capsules in stainless steel and lead-shielded containers, and then placing them in underground caves.

But in the United States, nuclear waste disposal is a political problem because environmental groups have fanned widespread fears disproportionate to the risk reality. Since the first nuclear reactors were built and began operation during the middle part of the past century, the U.S. government has acknowledged its obligation to dispose of high-level radioactive materials. This obligation has been codified in law and in contracts with the electric utilities that operate the U.S. fleet of 103 nuclear reactors. Nevertheless, in the face of political pressure from anti-nuclear activists, the government has failed to fulfill its obligation and remains in default of its statutory and contractual obligation. Often, the no-nukes activists are aided and abetted by reporters who are either misinformed or searching for headlines that frighten readers and sell copies.

In 2002, Congress and President George W. Bush approved a plan to dispose of the nation's high-level radioactive waste in a deep geologic repository 1,000 feet below Yucca Mountain, a remote desert ridge in Nevada. The approval was based on more than 20 years of intensive scientific study that showed the proposed repository would protect public health and safety for thousands of years.

Few scientists question the safety of the site, and there is broad international scientific consensus supporting deep geological disposal ... yet environmental zealots have made it clear they will never accept any site, hoping their opposition will force the nuclear power industry to its knees. They are aided in that

INTERNET INFO

For more information on the environmental stewardship practiced by the nuclear energy industry, see "Power the Future with Environmentally Sound Nuclear Energy: The Ecological Stewardship of the Nuclear Energy Institute." Published by the Nuclear Energy Institute, the 33-page report is available on its Web site at **http://www.nei.org** and through *PolicyBot*, The Heartland Institute's free online research database. Point your Web browser to **http://www.heartland.org**, click on the *PolicyBot* button, and search for document **#13885**.

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Daniel Eisenberg, "Nuclear Summer," *Time*, May 28, 2001.

Richard Rhodes, "Nuclear Power's New Day," Science & Environmental Policy Project Newsletter, May 16, 2001.

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d reliable source of baseload electricity
s the economy moving."

quest by the NIMBY syndrome of "not in my back yard," which ensures some politicians will always oppose unpopular but necessary facilities being located in their districts.

Safety Record

It is indeed remarkable that even the combination of human fallibility and mechanical failure has not prevented the nuclear power industry from achieving a safety record unsurpassed by any other industrial activity over the past 40 years. Commercial nuclear electricity in the United States has killed zero members of the public over that period. Conventional electric plants powered by coal, oil, and natural gas produce more than 200 accidental deaths per year.

As was noted in Part 1 of this series, the U.S. has already experienced the most severe nuclear power accident ever likely to occur in this country: that incident, at Three Mile Island, produced no deaths or injuries. The worst-case nuclear power accident—which could not occur in the United States—also has already occurred, in the former Soviet Union at Chernobyl. It produced only a small fraction of the predicted tragic outcome.

It is totally fraudulent to conjure up in the minds of the public Hollywood movies and "China Syndrome"-like disasters. Yet that is exactly what was done on June 30, 2003, when an activist group calling itself Riverkeeper ran a half-page advertisement in the *Wall Street Journal* calling for the closure of the Indian Point nuclear power plant 22 miles from New York City. The ad stated: "In the event of a terrorist attack or catastrophic accident the damage to the nation's economy would be incalculable."

Nuclear power plants would not create human catastrophes if targeted by terrorist attacks, as the public is sometimes led to believe. Nuclear power plants are the most secure industrial facilities in the world. They are protected by large, well-trained, and well-armed security teams and are surrounded by three concentric security zones, each providing increased levels of protection.

In addition to physical/vehicle barriers, illuminated detection zones, and state-of-the-art surveillance/detection equipment, reactors at nuclear power plants are encased in steel-reinforced concrete containment structures up to four feet thick. The vitality of this defense-in-depth approach was validated through peer-reviewed engineering analyses by EPRI, a California-based research organization, which determined that the reactor and used fuel storage area would withstand the impact of a wide-body commercial aircraft.

Nuclear power plants are not nuclear bombs, and they cannot be turned into nuclear bombs, regardless of how they might be attacked. Still, their security is in the best interest of all citizens, and indeed they have the very best security money can buy.

The Future of Nuclear Plants

Nuclear power is a safe, cost-effective, and reliable source of baseload electricity—the 24/7 energy that keeps the economy moving. Fortunately, most of the U.S. reactor fleet is expected to renew their operating licenses to continue operation for another 20 years. There are also three new reactor designs already certified by the Nuclear Regulatory Commission and a fourth, a larger variation of one of those already certified, is under review.

There are also six exciting new reactor designs being evaluated by the Department of Energy's Generation IV program. One of these designs, also undergoing testing in South Africa, is the Pebble Bed Modular Reactor. The reactor encases the nuclear source material in ceramic spheres about the size of tennis balls and transfers the heat into helium gas, which is used to turn a turbine.

The reactor's temperature reaches about 900 degrees Centigrade—it would take nearly 3000 degrees to melt the ceramic fuel and release any radioactivity. Moreover, the medium of helium dramatically reduces any potential impact on the environment, were a release to occur. The nuclear regulatory commission is supportive of the innovation and appears willing to approve sites for small, 500 megawatt plants.

The Bottom Line

It is profoundly sad that anti-capitalist, anti-industry, anti-development, and in fact anti-people socialists have poisoned the minds of so much of the world against the cheapest, most abundant, and safest form of energy on the planet. It is truly amazing what devious minds can achieve in a world so filled with terror-prone people.

Those of us who know better must begin a strong and enduring battle against these forces because our success will improve not only our own safety and prosperity, but the plight of the least fortunate, poorest fed, clothed, sheltered, and educated on Earth. As energy goes, so goes the health of nations.

Jay Lehr, Ph.D., is science director for The Heartland Institute. His email address is **e3@e3power.com**.

Mercury

Continued from page 1

to foster undue concern about an important part of our food supply.

No Evidence

"Do not eat shark, swordfish, king mackerel, or tilefish because they contain high levels of mercury," is the FDA's first rule.

It's certainly true such larger fish tend to have higher levels of mercury in their tissue, since mercury levels tend to accumulate up the food chain. But unless women are consuming fish that have been exposed to industrial-level concentrations of mercury for extended periods of time, as Japanese women in the vicinity of Minamata Bay did during the 1950s, it's not at all clear that consuming large fish is any sort of health risk.

Researchers from the Harvard School of Public Health reported in the February 2002 *Journal of Occupational and Environmental Medicine* that they could not find mercury-related health effects

"Unless the FDA has a science-based health warning to issue, it ought to clam up."

among a group of regular swordfish consumers.

Although a "significant relationship between fish consumption and blood mercury concentrations" was identified by the researchers, "higher blood mercury concentrations were, however, not associated with specific patterns of health complaints."

There is also no evidence of a general threat to infants and children from typical maternal consumption of fish with typical mercury concentrations.

"No evidence of adverse effect from either pre- or post-natal exposure to methyl mercury," is how Thomas W. Carson of the University of Rochester School of Medicine characterizes the results of an ongoing study of children in the Seychelles Islands.

In fact, "a surprising finding in the results of the examination of children at 66 months of age was that several [intelligence] tests scores improved as either pre- or post-natal mercury levels increased. Linear regression analysis reveals statistically significant beneficial correlations," noted Carson.

Aside from Minamata Bay, not a single clinical case of mercury poisoning associated with fish consumption is to be found in the scientific literature, according to Carson.

It seems the FDA is warning—and indeed scaring—us about a scenario that has, essentially, never occurred.

Simply Arbitrary

The FDA's other two rules are similarly not grounded in science.

"Levels of mercury in other fish can vary. You can safely eat up to 12 ounces (two to three meals) of other purchased fish and shellfish per week. Mix up the types of fish and shellfish you eat and do not eat the same type of fish and shellfish more than once a week," warns the FDA's second rule.

Now where did the 12 ounces-per-week figure come from? Is there evidence that consuming 13 ounces per week—or for that matter, 130 ounces per week—is dangerous? Is there evidence that eating the same type of fish and shellfish more than once a week is harmful?

The FDA's 12 ounces-per-week rule is simply arbitrary.

The third FDA rule reads, "Check local advisories about the safety of fish caught by family and friends in your local rivers and streams. If no advice is available, you can safely eat up to 6 ounces (one meal) per week of fish you catch from local waters, but don't consume any other fish during that week."

The FDA apparently wants us to think that any given local body of water is potentially a Minamata Bay situation, where tons of mercury were dumped into the water over the course of two decades. But even if such situations existed in the U.S.—and they never have—the Minamata Bay mercury poisoning victims no doubt consumed much more fish than one six-ounce meal per week.

Seafood is most definitely part of a healthy diet. Further, the seafood industry is a large part of the U.S. economy. Unless the FDA has a science-based health warning to issue, it ought to clam up.

Steven Milloy is the publisher of JunkScience.com (**http://www.junkscience.com**), *an adjunct scholar at the Cato Institute, and author of* Junk Science Judo: Self-Defense Against Health Scares and Scams *(Cato Institute, 2001).*

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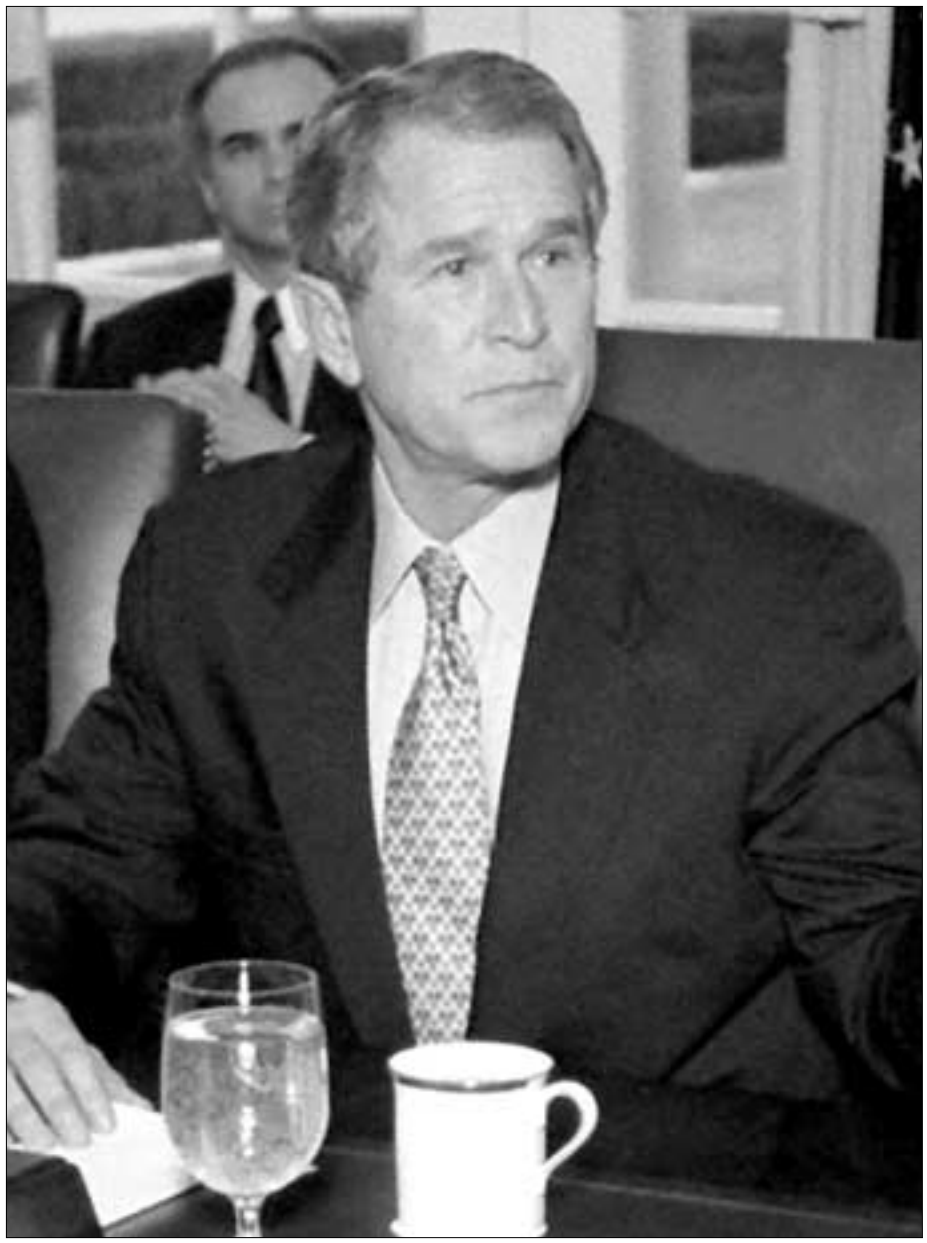
Bush Declines to Issue Wetlands Regulations

Interpretation of 2001 Supreme Court case left to lower courts



by James M. Taylor

Responding to pressure from environmental activists and many congressional Democrats, President George W. Bush instructed the Environmental Protection Agency (EPA) and Army Corps of Engineers not to issue new regulations interpreting the U.S. Supreme Court's 2001 Clean Water Act decision in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* (commonly referred to as SWANCC).

The Clean Water Act applies to navigable interstate waterways. The federal government has in the past loosely interpreted the definition of navigable interstate waterways to include most any location subject to periodic standing water.

However, the SWANCC decision held that "navigable waters" subject to the Clean Water Act do not include isolated ponds and mudflats unconnected to navigable waterways except by their potential use by migratory birds. While the decision itself was limited in scope, the Supreme Court hinted in the decision it might nullify other isolated wetlands from Clean Water Act protection if their connection to navigable interstate waters was similarly tenuous.

"This decision ignores the issues raised by the U.S. Supreme Court's 2001 ruling in the [SWANCC] case ... and leaves builders, developers, and landowners in limbo."

KENT CONINE
NATIONAL ASSOCIATION OF HOME BUILDERS

Following the SWANCC decision, EPA and the Army Corps issued January 2003 guidelines for their agents to implement and enforce the Supreme Court's decision. The guidelines reflected an interpretation that the SWANCC holding would nullify from Clean Water Act protection isolated wetlands whose only connection to navigable interstate waterways was serving as a habitat for endangered species or as irrigation for crops.

As EPA and the Army Corps prepared to implement formal regulations in keeping with their January 2003 guidelines, environmental activist groups and congressional Democrats turned up the heat on the Bush administration to forgo issuing regulations on the matter. Jim Connaughton of the White House Council on Environmental Quality explained that the isolated wetlands potentially at issue amounted to less than 35,000 of the millions of acres previously covered by the Clean Water Act.

Nevertheless, on November 25, 191 House Democrats and 26 House Republicans wrote and publicly disseminated a letter to Bush urging him not to issue new wetlands regulations. The letter was timed to coincide with a media blitz on the topic conducted by environmental activist groups.

According to a December 16 statement by EPA Administrator Mike Leavitt, Bush himself made the decision not to issue new regulations. Leavitt explained the administration did not seek to initiate "a contentious and lengthy rulemaking debate" over the interpretation of the Clean Water Act and the SWANCC decision.

"President Bush, the Environmental Protection Agency (EPA), and the Army Corps of Engineers (Corps) today reiterated the Administration's commitment to the goal of 'no net loss' of wetlands in the United States," stated an EPA press release. "EPA and the Corps announced they would not issue a new rule on federal regulatory jurisdiction over isolated wetlands."

"Shirking Their Responsibility"

Without enforceable guidance regarding what isolated wetlands are and are not covered by the Clean Water Act, citizens risk severe criminal penalties for activities the SWANCC decision appeared to make legal. Moreover, the lack of formal regulation makes it difficult for businesses, and homebuilders in particular, to make confident business decisions.

Said National Association of Home Builders (NAHB) President Kent Conine, "NAHB is dismayed to see the agencies

Appellate Courts Clash on Supreme Court's Wetlands Decision

Fifth Circuit rules isolated wetlands not "navigable waters"

by James M. Taylor

On the same day the Bush administration announced it would not issue new wetlands regulations, the U.S. Court of Appeals for the Fifth Circuit added confusion to the issue by defying two of its sister circuits, holding that isolated waterways do not qualify as "navigable waters" under the Clean Water Act.

In 2001 the U.S. Supreme Court ruled in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* (commonly referred to as the SWANCC decision) that "navigable waters" subject to the Clean Water Act do not include isolated ponds and mudflats unconnected to navigable waterways except by their potential use by migratory birds.

Since the SWANCC decision, two federal appellate courts have narrowly interpreted the Supreme Court's ruling and refused to nullify Clean Water Act coverage for other isolated wetlands. The Fourth and Sixth Circuits each ruled the Army Corps of Engineers could impose Clean Water Act regulations on man-made drainage ditches.

Fifth Circuit Disagrees

However, on December 16, 2003, the Fifth Circuit ruled in *United States v. Needham* that the Fourth and Sixth Circuits erred in their "expansive interpretation" of EPA powers to regulate isolated waterways. According to the court, "navigable waters" do not include "all waters, excluding groundwater, that have any hydrological connection with 'navigable waters.'"

EPA's expansive interpretation of its powers is untenable, asserted the Fifth Circuit, because the Clean Water Act and related laws "are not so broad as to permit the federal government to impose regulations over 'tributaries' that are neither themselves navigable nor truly adjacent to navigable waters."

Accordingly, ruled the Fifth Circuit, the federal government "may not simply impose regulations over puddles, sewers, roadside ditches, and the like."

This clash among the appellate courts renders it likely that the U.S. Supreme Court will resolve the issue sometime in the near future.

"Landowners, home builders, developers, and regulatory field officials have no coherent guideposts from the Bush administration on the limits of federal regulation under the Clean Water Act," said Kent Conine, president of the National Association of Home Builders. "It's time for the Supreme Court to step in and confirm that puddles and ditches are not navigable waters so that we are not needlessly increasing the area we have to regulate with finite budgetary resources.

"What we learned from the *Needham* decision is that if the Deatons' land were in Texas, their ditch would not have been regulated by the federal government," added Conine. "Without action from the EPA, the Supreme Court is the only realistic forum that can resolve the question of jurisdiction and take landowners like the Deatons out of regulatory limbo, and we urge the justices to take the case."

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shirking their rulemaking responsibility and relegating environmental decision-making to the courts. This decision ignores the issues raised by the U.S. Supreme Court's 2001 ruling in the [SWANCC] case ... and leaves builders, developers, and landowners in limbo.

"Rulemaking does not constitute a roll back of Clean Water Act regulations," Conine continued. "Rather, it would ensure consistency and predictability over permitting processes for activities in isolated wetlands. This is bad for business and bad for wetlands."

No Credit from Eco Activist Groups

Despite the administration's decision not to issue formal rules in keeping with the SWANCC decision, many environmental activist groups were reluctant to credit the President for his decision.

"We're happy that they've decided not to go forward," asserted National Wildlife Federation water policy analyst Malia Hale. "However, the [informal] guidance still stands out there."

"We thank the EPA and the Corps for this announcement but ask them for another: full protection of our nation's waters," added Roger Rufe, president of the Ocean Conservancy.

"Across the federal government, the Bush administration has reaffirmed and bolstered protections for wetlands, which are vital for water quality, the health of our streams and wildlife habitat," responded EPA Administrator Mike Leavitt.

Assistant Secretary of the Army John Paul Woodley Jr. agreed. "We will continue our efforts to ensure that the Corps' regulatory program is as effective, efficient, and responsive as it can be," said Woodley.

NAHB's Conine, however, criticized EPA and the Army Corps for their post-SWANCC enforcement activities.

"Since the SWANCC decision," said Conine, "the agencies have failed to provide a comprehensive, natural approach to jurisdictional decisions—choosing instead to instruct field staff within each district to interpret local court decisions. Despite this ruling, EPA and the Corps have continued to assert jurisdiction over isolated wetlands without any clear definition of an isolated wetland or clarification of its jurisdiction.

"Absent a rulemaking decision by EPA and the Corps, builders and land developers will continue to face widely varying approaches to wetlands regulation and problems that have persisted since the SWANCC decision," Conine added.

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

INTERNET INFO

The U.S. Supreme Court's 41-page decision in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* is available through *PolicyBot*. Point your Web browser to **http://www.heartland.org**, click on the *PolicyBot* icon, and search for document **#14110**.

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Glacier National Park Ruling Voids Property Rights

by William Perry Pendley

Jack McFarland owns property, which he bought from his grandmother, in Glacier National Park.

Like his grandmother and the man from whom she bought the land, who staked his homestead prior to Glacier National Park's creation and received his patent from President Woodrow Wilson, McFarland accesses his property in the only way possible: via Glacier Route 7.

McFarland's property is just three miles north of the Polebridge Ranger Station. Because of the patent granted to the original homesteader and the rights guaranteed homesteaders by the Glacier National Park Act, the National Park Service (NPS) may not deny McFarland year-round access to his property.

Thus, in the 1970s, when the NPS put barriers on Glacier Route 7 to prevent the general public from driving north of Polebridge Ranger Station in the winter, the NPS guaranteed access to landowners.

The NPS did so because it recognized that is what the law requires. As the NPS explained, in August 1985 in its Land Protection Plan for Glacier National Park, "[t]he National Park Service recognizes private landowner rights [{to} 'reasonable and adequate use and enjoyment of his property' {are}] guaranteed in the enabling legislation for the park ..."

However, in December 1999, the NPS sent McFarland an email informing him "that no one will drive park roads once they are closed to the public." Though McFarland believes he has the right to use Glacier Route 7, he was willing to compromise. On January 6, 2000, he filed a special use permit application asking the NPS's permission to use a vehicle or snowmobile to travel between his home and the Polebridge Ranger Station. On January 24, 2000, the NPS summarily denied that application.

McFarland sued. First, because he claims an easement in Glacier Route 7, with which the NPS interfered, he sued under the Quiet Title Act, by which Congress authorized landowners to get title to property to which the government asserts an adverse claim. Second, because the NPS arbitrarily and capriciously denied his special use permit, he sued under the Administrative Procedure Act (APA).

Recently, a Montana federal district court dismissed McFarland's case. The court ruled he had filed beyond the Quiet Title Act's 12-year statute of limitations, which, according to the district court, began to run in 1976 when the NPS restricted the general public's ability to use Glacier Route 7 north of Polebridge Ranger Station. Though the NPS gave McFarland complete access to Glacier Route 7, he should have known,

"Since 1910, the NPS acknowledged consistently that it could not deny people like Jack McFarland access to their property, putting that understanding in writing as recently as 1985."

reasoned the court, that the NPS believed it could deny him that right. The court also dismissed the APA claim because the Quiet Title Act is "the exclusive means" of resolving property disputes. Both rulings are legally suspect and terrible public policy.

Since 1910, the NPS acknowledged consistently that it could not deny people like Jack McFarland access to their property, putting that understanding in writing as recently as 1985. That written statement came less than 10 years after, in the court's view, McFarland should have known the NPS claimed just the opposite. Moreover, when McFarland requested a special use permit, he was not claiming a property right but seeking a license, which the NPS could revoke unilaterally. Under the APA, he has a right, as do all citizens, to have that request decided in a manner that is neither "arbitrary nor capricious." Thus, the court has deprived all who have property disputes with the government of their right, as granted by Congress in the APA, to fair and equitable treatment.

The court has essentially told property owners who access their property via federal lands that, any time the United States restricts the access rights of the general public to use those lands, it has acted in a manner adverse to the property owners and, to protect their rights under the Quiet Title Act, they must file suit. The Montana court has opened the litigation floodgates.

William Perry Pendley is president and chief legal officer of the Mountain States Legal Foundation.

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Tahoe Regulators Say Fire a Greater Threat than Pollution

by James M. Taylor

The Tahoe Regional Planning Authority (TRPA), established by Congress in 1969 to safeguard Lake Tahoe's breathtaking clarity and natural beauty, has for the first time concluded that fire, rather than pollution, represents the greatest threat to Lake Tahoe.

"Our battle cry now should be wildfires," said Coe Swobe, a former Nevada lawmaker who helped establish the agency and currently serves on its governing board. "In my opinion, I don't think there's any more important or critical issue facing the Tahoe Basin right now."

"I can tell you that private property owners are scared right now," agreed John Falk of the Tahoe-Sierra Board of Realtors. "It's a tinderbox."

The governing board agreed with Swobe, and instructed its staff on December 17 to alter its workplan for the 2004 year to place a greater emphasis, and more financial focus, on forest thinning.

The decision marks a significant departure from prior years, when the TRPA focused primarily on reducing motor vehicle emissions, soil erosion, and runoff into Lake Tahoe. It is also an indictment, of sorts, of the anti-logging rhetoric and lobbying by groups such as the Sierra Club, which bear some of the blame for the wildfires that destroyed millions of acres of forests in California last summer.

Now, the governing board is working to ensure that catastrophic fires, like the ones that ravaged Southern California last year, do not take a similar toll on the Lake Tahoe Basin.

"It could happen here," said Reno Fire Department Chief of Operations Marty Scheuerman. "Proportionally, it could be just as devastating."

Scheuerman recommended that, in conjunction with the new emphasis on fire prevention, TRPA establish a plan to ensure county property does not become fire-prone due to oversight or neglect. Scheuerman also recommended TRPA ensure the availability of standby National Guard firefighting aircraft during periods of extreme fire danger.

"I think they're going to have to be very proactive," said Scheuerman. "The problem is easy to define. It's the solution that's the hard part."

A working model for the new programs is a recent successful thinning of dead and insect-infested timber on federal lands near Lake Tahoe. Under the TRPA's 2004 plan, similar efforts would restore the health and sustainability of forests on public and private lands alike. Particular attention will be paid to forests near homes and businesses.

A comprehensive fire prevention program is expected to cost TRPA up to $26.5 million over a five-year period. The governing board is hoping funds from the Southern Nevada Land Management Act and the federal Healthy Forests Initiative will pick up much of the bill.

"It is also an indictment, of sorts, of the anti-logging rhetoric and lobbying by groups such as the Sierra Club, which bear some of the blame for the wildfires that destroyed millions of acres of forests in California last summer."

Many major environmental groups, including the Sierra Club, Natural Resources Defense Council, and Friends of the Earth, opposed the Healthy Forests Initiative.

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

Portland's Northwest 23rd Avenue No Model for Others

by Wendell Cox

Why can't everywhere be like Disney World? So goes the question asked by many a child after a fulfilling day of joy at the world's leading amusement park.

A similar question is raised by many an urbanist after a visit to one of the holiest shrines in the planning Nirvana of Portland, Oregon. They come home believing their job is to turn the entire urban area into a copy of Portland's Northwest 23rd Avenue.

Northwest 23rd Avenue is one of the many "chic" spots to be found in the nation's cities. In Portland, it fulfills the role of Harbor Place in Baltimore, North Michigan Avenue in Chicago, LaClede's Landing in St. Louis, and LoDo in Denver. Northwest 23rd is lined with fashionable restaurants and boutiques and is an eminently walkable place. To hear Portland's urban theologians put it, you'd think this is the future for the entire urban area.

It is not.

A Magnet, Not a Community

Northwest 23rd, and neighborhoods like it all across the country, are in fact not neighborhoods at all. They are magnets that draw people from all over the urban area for particular purposes.

They are what La Cienega Boulevard was to Los Angeles in the 1960s and 1970s, when it was called "restaurant row." They are what Arrowhead Stadium is to Kansas City on Sundays when the professional football Chiefs play at home. One can no more imagine a Portland made up of Northwest 23rds than a Kansas City made up of Arrowhead Stadiums or a Cleveland with wall-to-wall Rock and Roll Halls of Fame and Museums.

For all its walkability, Northwest 23rd has some of the highest automobile densities in the nation. Parking is a real problem here, and most of the out-of-neighborhood visitors who support the intense business activity come by car. Of course, with a new streetcar line having recently been opened, we will doubtless soon be hearing that Northwest 23rd developed in response. Fortunately, many of us who have been there took pictures before the cutesy transit line arrived.

The urban planners who see Northwest 23rd as a model talk about "fine grain" planning, suggesting they alone know how to design a balance of jobs and residences that make a community walkable. But the walkability of Northwest 23rd is not a planner's design—it was a market design.

Moreover, the walkability of Northwest 23rd is like the walkability of the local enclosed shopping mall or Wal-Mart supercenter. These are the ultimate in pedestrian-oriented designs—people walk a lot in them. But those walkers get there by car. So do the visitors to Northwest 23rd.

To have the walkability of which planners dream, without automobile access being necessary, requires population densities far higher than most planners are willing to admit. Walkability, except in small enclaves, is simply not possible at Portland densities or even the higher densities one finds in Phoenix, Denver, or Los Angeles.

There is no doubt Northwest 23rd Avenue is a nice place to visit. It may even be a nice place to live. But there are not enough people in Portland to support an entire urban area made up of Northwest 23rd Avenues.

Wendell Cox is a senior fellow of The Heartland Institute and principal of Wendell Cox Consultancy, an international public policy firm. His email address is **wcox@publicpurpose.com**.

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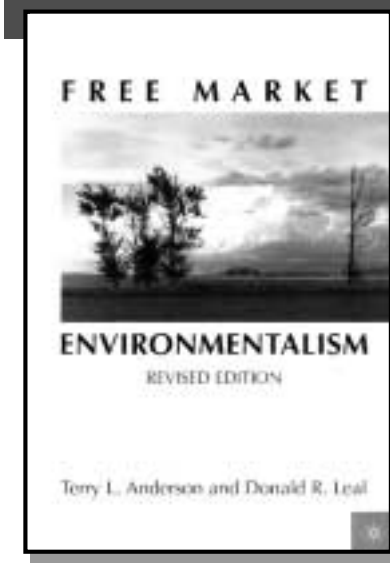

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Yellowstone

Continued from page 1

civics," said R.J. Smith, senior environmental fellow and adjunct scholar with the Competitive Enterprise Institute. "It puts the lie to the old saw that these are 'your' parks.

"The public lands have never belonged to the public," Smith explained to *Environment & Climate News*. "They belong to the state, which today means they belong to the Greens inside and outside of the government."

Judge Emmet Sullivan ruled National Park Service officials failed to adequately explain why the agency reversed a proposed Clinton administration rule intended to ban snowmobiles from the parks.

Clinton Ban Controversial

The Clinton rule itself was highly controversial, as it sought to reverse a 40-year history of snowmobile recreation in Yellowstone and Grand Teton. The Clinton administration argued air and noise pollution from snowmobiles was severe and could not be adequately addressed by any means other than a total ban.

With 75 percent of winter visitors to Yellowstone utilizing snowmobiles, the Attorney General of Wyoming, a Democrat, and citizens groups such as the Blue Ribbon Coalition filed suit against implementation of the Clinton rule.

A ban on snowmobiles would create a virtual ban on public access to the park during winter months and would devastate local economies, argued the plaintiffs. However, the suit was dropped after the Bush administration announced it would not implement the Clinton rule and would instead seek a balanced approach that would mandate the use of the best available technology to reduce air and noise pollution while still allowing limited snowmobile access.

"The prospect of new technology [to address pollution] is not new," argued Sullivan in his written opinion. Because the Clinton administration must have been aware that technological developments might ameliorate pollution, argued Sullivan, the Bush National Park Service must come up with sound reasons other than the implementation of technological innovation for reversing the snowmobile ban. "The agency is under obligation to explain its 180-degree reversal," Smith asserted. "NPS has not met this obligation."

Interior Secretary Gale Norton disagreed that today's pollution-abatement technology was available for consideration by the Clinton administration. "Over the past three years, snowmobile manufacturers have developed improved technologies that dramatically reduce air and noise emissions," said Norton.

Under the Bush administration's proposed rule, only 950 snowmobiles would be allowed in Yellowstone on any given day, as opposed to roughly 1,700 snowmobiles that have typically entered the park during busy days. Additionally, all snowmobiles in the parks would have been required by 2005 to achieve a 70 percent reduction in carbon monoxide emissions and a 90 percent reduction in hydrocarbon emissions.

"If environmental extremists continue to have their way, people will only be looking at Yellowstone through a plate glass window."
REP. RICHARD POMBO (R-CALIFORNIA)

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Legal Fight Continues

Sullivan's decision, issued just hours before Yellowstone was scheduled to open for the winter season, reignited the controversy and refueled the legal battles that had been put on hold with non-implementation of the Clinton rule.

The State of Wyoming, Blue Ribbon Coalition, and International Snowmobile Manufacturers Association (ISMA) immediately filed motions seeking reconsideration of Sullivan's decision. Moreover, Wyoming Attorney General Pat Crank (D) and the Blue Ribbon Coalition indicated they were likely to reopen their earlier suits against the Clinton rule.

"There is a way to manage for multiple uses of Yellowstone, and this decision doesn't recognize that reality."

HON. CONRAD BURNS
R-MONTANA

"Federal judges continue to abuse their authority by legislating from the bench," said House Resources Committee Chairman Richard Pombo (R-California). "This judge in particular seems to have a penchant for locking out the public and refuses to apply common sense in interpreting the spirit and intent of the law."

While Sullivan, who has frequently ruled against the Bush administration on environmental issues, was vested with authority to decide the legitimacy of the Bush rule, the battle is not over. The case is certain to be appealed to the federal appellate court in Washington, DC. Moreover, the suit previously filed against the Clinton rule is under the jurisdiction of a federal district judge in Wyoming, who in the summer of 2003 struck down the Clinton administration's ban on building new roads in national forests.

"The fight's not over," vowed Bill Dart, public lands director for the Blue Ribbon Coalition. "We're back to management by litigation, unfortunately," Dart observed.

In addition to throwing out the National Park Service's snowmobile plan for Yellowstone and Grand Teton, Sullivan ordered the NPS to respond to a petition by the Bluewater Network seeking to ban snowmobiles in all national parks, national recreation areas, and national monuments.

Local Outrage

"If environmental extremists continue to have their way," responded Pombo, "people will only be looking at Yellowstone through a plate glass window."

J. Bishop Grewell, a research associate at Bozeman, Montana-based PERC, echoed Pombo's concern and warned of the growing politicization of Yellowstone access.

"A limited number of outfitters are allowed special dispositions to lead people into the park on snowmobile and horseback," Grewell explained to *Environment & Climate News*, "granting them one of the sweetest monopolies around. The rich recreationists who can afford the outfitter-style vacation benefit as well, while the poor—many of whom spent a significant portion of their income purchasing snowmobiles or taking out loans to purchase the vehicles as their main recreational outlet—are left at home."

Grewell is the author of a forthcoming policy series from PERC on recreation fees and the hard questions that must be asked before such fees are implemented. If policymakers are not careful, Grewell warned, "The parks return to playgrounds for the rich—something that goes against the mission of the Park Service to provide access for everyone."

Throughout the Yellowstone region, there was bipartisan outrage at Sullivan's decision.

Sullivan's decision "will have a severe impact on the economy of our gateway communities," said Montana Senator Conrad Burns (R), in support of the Democratic Attorney General's decision to contest the ruling. "There is a way to manage for multiple uses of Yellowstone, and this decision doesn't recognize that reality."

The new rule is "going to be devastating to our economy, no doubt about it," agreed West Yellowstone Mayor Jerry Johnson.

"The Town Council [is] alarmed" about the effect of the snowmobile ban on the town economy, reported the Bozeman, Montana, *Daily Chronicle*.

"It will cause some bankruptcies, there is no debate," added ISMA President Ed Klim. "There's going to be a few families that lose their homes in West Yellowstone."

"Because West Yellowstone is the winter gateway to the park, the coming loss of most of the winter visitation to the town may well spell its death," agreed CEI's Smith. "This decision represents another nail in the coffin of rural America and its communities, farms, ranches, and homes across the West."

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

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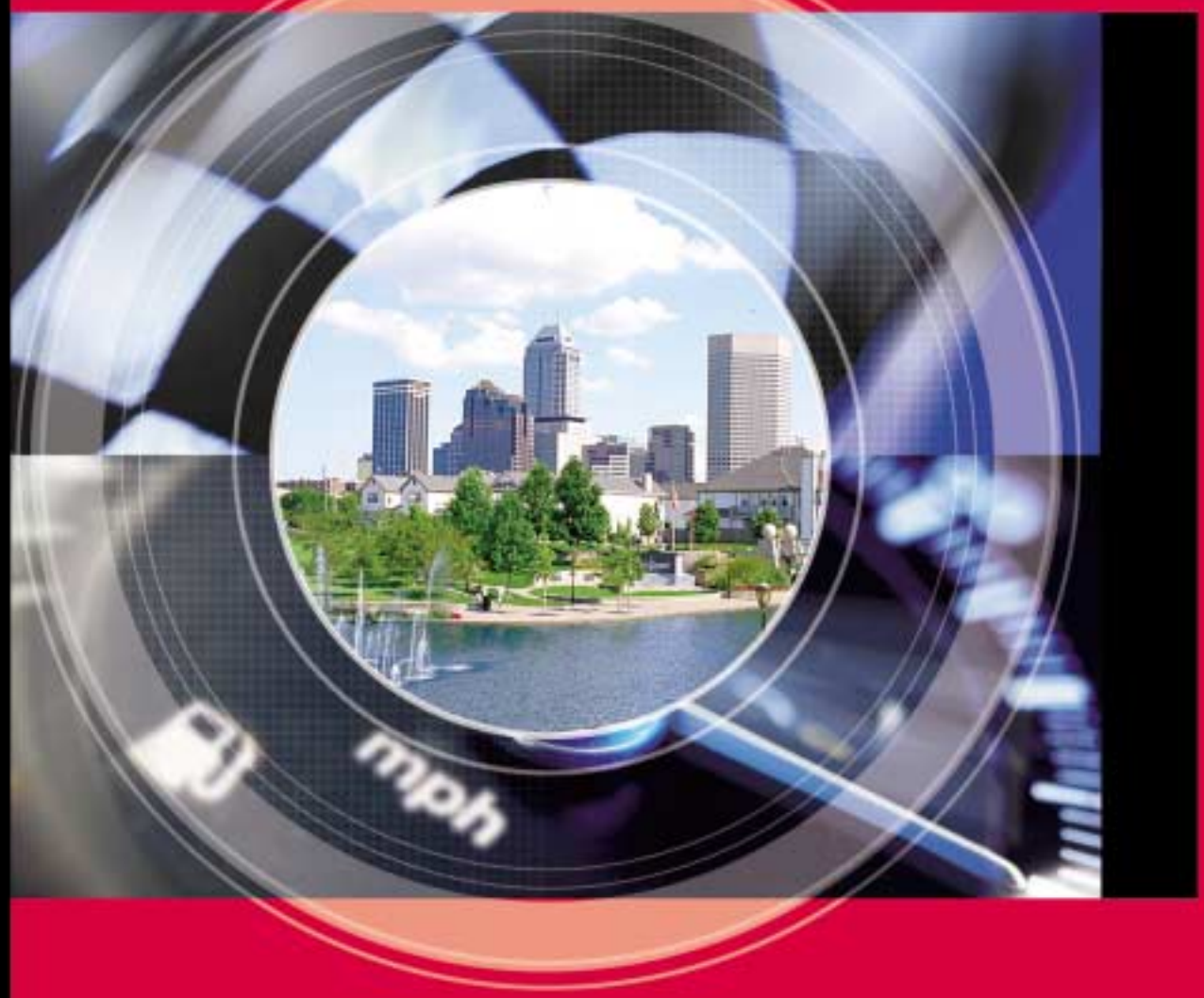

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